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The Plague of Professors to Regulation

What the substitution of academic theory for practical experience has done to the law of competition in the case of the railroads—as seen by a utility stockholder.

BY HERBERT COREY

THIS morning I forgot to keep my eyes fixed on the Italian Renaissance fireplace with the George III fender around it to keep the airedale from falling in, and the genuine hand-stitched sampler done in 1819 by a sulky little girl, and the imported brass coal bucket, and I looked for a moment at the prices of railroad stocks as set forth in the paper.

And so this day was all shot to thunder.

By the time the reader sits down to have his twenty minutes with Corey—if he skips a good deal—prices will have recovered, no doubt. This statement is accompanied by a sardonic noise, like a horse coughing in a covered bridge. I have no thought that prices will ever recover. I am as pessimistic as a flea on a hairless dog. The world depression may become a bulge again, France and Germany may go into a petting party, the American farmer may become a *nouveau riche* with diamond buttons on his pants, and Europe may agree that Uncle Sam is just a sucker instead of a blood sucker, and still I will not believe that railroad values will ever come back.

AND why does not the little gentleman with the sad eyes believe that railroad values will ever return to normal?

I'll tell you why.

Professors. That's why; professors. The railroad situation is just crawling with them. So is every other situation that can be regulated, balled up, investigated, and monkeyed with.

Once the professors get in they multiply like pis-ants. They are a worse curse than grasshoppers. One recalls the experience of a farmer in Aberdeen, South Dakota, who shooed his flock of turkeys out to eat the grasshoppers that were ravaging his fields. The hoppers chewed off their feathers.

"Them turkeys" reported the farmer, "come back honester birds than they went out, and chastender, and more God-fearing. But considered simply as turkeys they didn't amount to much."

Just to forestall criticism, of which I am as afraid as a negro of a cotton mouth adder, I will admit that I am prejudiced. Perhaps my mother was once scared by a professor. Sincere gentlemen with theories are just the same as the ague to me. I had rather see mortgages lifted than souls uplifted. Two bathtubs to the house seem more desirable than complete editions of Shakespeare, Willa Cather and "Our Debt to the World" bound in bull.

Andrew Carnegie may have been a tough old scorpion, but I think he did more good to the world than Billy Sunday, S. Parkes Cadman, and the Sunshine Sisters combined.

And that's that.

Now let's get along with the argument.

SOMETHING is wrong with the railroads. Every one admits that. Admits it, thunder; every one yells it.

From 1910 to 1929 the railroads added 1,238 locomotives to their equipment and increased their average tractive power by two thirds.

The freight cars added in that period were 175,502 and their average capacity was boosted from 36 to 46 tons.

The 47,179 wooden frame passenger cars of 1910 became the 53,838 steel cars of today, which are easily the finest passenger cars in the world —and will Great Britain and the Continent please write?

The miles of road added were 77,287 and each mile was smoother and safer than in 1910.

In that period the total railway capital was increased by the stupendous sum of $4,523,326,000 and the railway tax accrual jumped from $103,853,576 to $396,682,634, or almost four times. The operating expenses rose from $1,881,879,000 for the first three clasess to $4,506,056,000 for Class I roads alone. That is far more than the difference of $2,624,177,000 in the totals.

What did they get for it?

IN the period beginning June 30, 1910, and ending June 30, 1929, the population increased from 92,000,000 to 123,000,000 and learned to build towers, penthouses, wear silk, listen to radios, and ride in two automobiles. It was the freest spending, biggest building, most epicurean, extravagant, luxury loving people on

earth. The railroads shoud have increased their total business in proportion to the increase in the total population.

What actually happened?

In 1910 they carried 1,026,491,000 tons of freight and in 1929 they carried 1,419,383,000 tons. A measly little increase—measly when the spread in population and building and business is considered—of 392,892,000 tons.

They actually carried 186,000,000 fewer passengers in 1929 than in 1910.

WHAT was the reason for this inconsiderable increase in freight and this discouraging drop in passenger business?

Professors. I will not make anything else out of it but professors. The title is a generic one, of course, and does not include only those who have collegiate degrees and a determination to make the rest of us say "uncle." By professors I mean those numerous peope who want to manage some one else's business and often do. They have interfered with the management of the railroads and by interfering with the natural play of competition have prevented the otherwise inevitable betterment of the transportation business until they have raised hob.

Perhaps they have hoisted the ethical level of railroading nearer that of the millennium.

But Americans have not been looking for ethical levels. They have wanted fast, good, cheap transportation for themselves and their goods. Because the professors have substituted theory for practice, the carriers have not kept up with the trend of the times and the potential customers have taken to other means. I trust no one will misunderstand me. I do not know any professor who is not hot-souled and zealous, but as a lot they are certainly hard to live with. The episode at Hornbeck might be cited as an illustration. The local professor addressed the grocer one day:

"Mr. Boggs," said he, "I am informed that you are living with a woman who is not your wife. If that is the case, I shall certainly withdraw my patronage."

"My groceries is all right, hain't they?" responded Mr. Boggs with some heat. "Ain't nobody undersold me yit. When I say I'll deliver an order, by dad, I deliver it.

"What I want to know is, what has that woman got to do with the price of eggs?"

THESE reflections are prompted by an experience of the late summer. It became necessary to go to Philadelphia from Washington during a week in which four deer were

¶ "I DO *not believe that a telephone or gas or electric company is able to give better or cheaper service because its operations are at intervals burst open by professors who believe that when utility men get home at night they slip into a comfortable set of horns and hoofs and begin to sing the Black Mass.*"

knocked senseless by bursting thermometers on the streets of Winston, Connecticut. There are some cities for which I would start with glad halloos, but I would not give a nickel to see Philadelphia in flames. The three hours' ride between the two cities is my idea of a noble section of purgatory. More or less by chance I took the Baltimore and Ohio's air-conditioned train, and that made it necessary for me to take the five o'clock air-conditioned train back. I would not have traveled any other way. The meanest of God's creatures is a coatless man in a Pullman car, with cinders in his neck and his shirt crawling on him. On board the new train the men wore their coats in perfect comfort. The ladies, bless 'em, looked like ladies, which they distinctly do not in a blistering steel car on a burning summer day. The air-conditioned car is, in the opinion of one of its beneficiaries, the first real advance in railroading since the wood burners were taken off.

Yet when you come to think about it, there is nothing positively startling in the idea. Movie theaters have been air-conditioned for years. It is the one thing that has kept many movie theaters alive after the people grew tired of watching a couple of photographs make love. The surprising thing is, if you get right down to cases, that all the railroads did not long ago arrange to furnish that nice, cold, movie air to their patrons during the hot months. Vice presidents must have thought of it from one end of this land to the other. That is the kind of improvement in railroading that stood on the right of way waving a red lantern.

But no railroad stopped to pick it up.

THE railroads have been hurt by airplane competition. Some of them have joined forces with the airmen and are operating plane-train services. The only advantage a plane has over a train is that it gets you somewhere in a hurry. You may get out of the plane with the drums of your ears sounding like one of Sousa's early marches and shaky with fright. You may have been cramped and cold and perishing for a cigarette. You may have had a toilsome drive to the airfield and a wearisome drive from it.

But you have saved an hour or two hours or more.

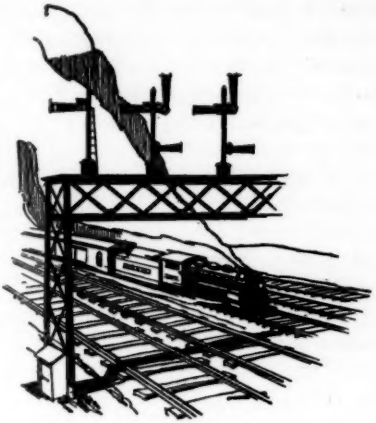
There is no comparison between the comfort of riding in a plane and riding in a properly heated or cooled railroad car. Yet the roads have never made any attempt to compete with the planes on the one ground on which competition is possible—that of speed. It is not credible to me that American inventors have not had in mind something like the device that was given a successful trial in Germany not long ago. The Germans called it the "rail-zep," and it is in effect a stream-lined railroad car with a zeppelin nose, pulled by an air propeller. It out-ran Germany's fastest train by a huge margin. More than that.

It made airplane speed.

The adoption of the rail-zep would involve a straightening of curves, no doubt, and a scrapping of obsolete equipment and the adoption of new schedules which would mean the despatching of single rail-zeps a few

Railroad Men Are No Longer Running the Railroads

"RAILROAD *men have not been running their own business, are not now running it, and very improbably ever will run it again. Professors are popping in and out of the doors, giving orders to railroad presidents, telling general managers how to load coal, interfering between the railroad managers and their employees and patrons and the men who sell things to them and the men who buy things from them.*"



minutes apart throughout the twenty-four hours instead of a few trains during that period with the wearisome concomitants of waiting in stifling stations or missing trains by the length of a grunt. But these changes seem more desirable to me than the constant and increasing loss of passenger business by the railroads. Remember that a population that increased by one third in twenty years is giving the rails only four fifths of the passenger business that it did twenty years ago.

And why did not the railroads adopt such obvious improvements as air-conditioned cars and rail-zeps to hold the passenger trade that has been taken from them by planes and automobiles and busses?

Professors. That's why. Regulations. Mother hovering over the cradle and forever pulling the blankets straight.

RAILROAD men have not been running their own business, are not now running it, and very improbably ever will run it again. Professors are popping in and out of the doors, giving orders to railroad presidents, telling general managers how to load coal, interfering between the railroad managers and their employees and patrons and the men who sell things to them and the men who buy things from them. Only now and then are the professors rebuffed. One paragraph in the latest report of the Interstate Commerce Commissioners gave me a laugh right under the belt buckle because it stated in such a naïve way the attitude of the Interstate Commerce Commission. Here it is:

> "A new basis for interterritorial rates between western trunk line and southern territories was not prescribed because of the meagerness of the record and the united position taken by southern state commissions, shippers, and carriers."

The whole attitude of the professors, and by that I mean all the regulatory commissions, national and

state, whether for railroad or telephone or gas, is that the professors know more about the conduct of the regulated business than do the men who have been managing that business. The paragraph quoted suggests to me that the Interstate Commerce Commission believed itself to be right but dropped the matter because the affected interests fought back. Maybe I am wrong. No doubt I am like Mr. Boggs the grocer:

"What I want to know is what that woman has to do with the price of eggs?"

IN its latest report the Interstate Commerce Commission states that forty-one state commissions have held hearings for the commission, "and in most cases in which a decision has been reached their recommendations and our conclusions have coincided."

I shall not attempt to summarize the year's work of the Interstate Commerce Commission which has been conducted, presumably, in harmony with the forty-one state commissions, but it is worth while to glance at some of its activities.

There have been 565 recapture examinations held during the year and 60 special examinations in the field and 1,244 formal complaint cases decided and 1,491 hearings conducted to a grand total of 217,621 pages of testimony.

There were 6,651 informal complaints received and the carriers filed 11,568 special docket applications "for authority to refund amounts collected under the published tariffs admitted by them to be unreasonable." Orders authorizing refund were issued in 10,658 cases.

(I think I have a clue to the identity of the man who dived into a cave under the Mississippi river's banks and was killed by a giant catfish. He was probably a railroad president.)

"The bureau also handled 36,700 letters, many of which had the characteristics of informal complaints. . . ."

AND about what were the letter writers complaining? About the manner in which the railroads were conducting their business, you bet you. The letter writers were smart guys, if you do not mind my use of nonprofessional language for a moment. They went right to headquarters with their complaints. They went to these second parties, appointed by third parties to manage the businesses of the first parties and the chances are they got results. No railroad man dare face an enraged professor in his lair. A mother lion is by comparison just a child's toy. If you do not think the Interstate Commerce Commission is running the railroad business of the country then read this paragraph:

> "Carriers were expected to make effective by November 1, 1930, the entire all-rail adjustments required, both intra and interterritorially. They subsequently advised that because of the enormous task of computing, compiling, and publishing the millions of rates prescribed, it is physically impossible to establish the entire adjustment before February 1, 1931, and intimate that it may not be possible before June 1, 1931."

Come on, catfish. If I were a railroad president I would welcome you.

IT will be freely admitted that there was a time when the railroads

needed policing. No man would turn his back to a railroad president on a dark street in those days. I attended a banquet at the old Waldorf hotel when one of our leading presidents was the guest of honor. The chairman advised the diners to hide their watches. The presidents were hard-handed, ruthless, gimlet-eyed bandits —in the opinion of this commentator —and when they got policed they got what was coming to them. The trouble is that when a professor gets his nose in the tent his entire body will immediately follow. The roads are not being policed by the professors. They are being run by them.

If the professors, on the evidence of the figures quoted in their own reports, can show me that they have made a success of running them I will eat the reports, paste and all.

Competition is the one thing that gets good service for us, whether in the grocery or the transportation line. That has always been the case and it will always be the case, professors or no professors. The man who wants to get business offers the man who has that business inducements in cash or speed or certainty or comfort. This is rather a soulless world and the business getter sometimes needs a hand on his neck. He is sure to be a better man if a patrol wagon backs up to his door now and then. But when the professor took over all the businesses on his street and ran them for their owners he got what advantage he could from the fact.

If he were not permitted to go out for new business with a club, it was some consolation to know that the club had been taken away from the other men.

RAILROADS did not go in for such comfort-giving and business-bringing innovations as air-conditioned trains and rail-zeps because they did not have to. The regulatory commissions did their best to regulate competition out of the picture. Instead of fighting for the wheat business of the farmer the railroads were told by the Interstate Commerce Commission the terms on which they could carry it. Ordinary business common sense suggests that competitors get together on arrangements to save money and improve service. But the commission sees to it that there shall be no such interference in the conduct of railroad affairs by the railroad managers. Recently this appeared in the papers:

> "The I. C. C. has approved the appointment of So-and-So to be general manager of the Ix-Wye and Hell Bent railroad."

That put a red spot on my cheek

¶ "THE *professors have interfered with the management of the railroads and by interfering with the natural play of competition have prevented the otherwise inevitable betterment of the transportation business until they have raised hob. . . . Because the professors have substituted theory for practice, the carriers have not kept up with the trend of the times and the potential customers have taken to other means.*"

bones. I could not see what possible excuse could be found for the Interstate Commerce Commission—a group of appointees of an administration—assuming to censor the selection of officers by the carriers. But I discovered that "it is unlawful for a person to be an officer or director in more than one carrier" unless authorized by the Interstate Commerce Commission. This statement is to be found in the latest report of the commission:

> "It may be assumed that in many instances the law has exercised a controlling interest in the selection of individuals for positions with carriers having conflicting interests. . . ."

But that is just the beginning of the activities of the professors in running the railroads of the country into the largest and most comprehensive hole in history. In the latest report it is to be read that:

> "We received during the year 37 applications to extend or build new lines for a total of 737 miles. . . ."

THE clear assumption is that the railroad men did not know their business. They thought, the poor catfish fighters, that if they built 737 more miles they could get more business. But before they could do that with the money of the roads they represented, presumably opening up new territory, the professors had to pass on it.

It is interesting to note, also, that although only 37 applications for 737 miles were filed, the Interstate Commerce Commission "issued certificates" in 54 cases authorizing the construction of 1,596 miles.

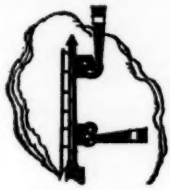
There is a discrepancy here that, no doubt, could easily be cleared up. I recall that one road had to go to court to restrain the commission from compelling it to build a line through sagebrush at the probable cost of $15,000,000. The railroad men could not see any business in the sage. The professors were not looking for business. Business is not business to a professor. It is a device by which one stranger can be compelled to do another stranger a lot of good at a considerable cost.

HERE is another discrepancy, although it may be that no importance need be attached to it. It is, I suppose, merely a matter of dating. However, in the year reported there were 75 applications to abandon a total of 980 miles of road and 72 certificates were issued authorizing the roads to abandon 1,807 miles.

There is no evangelistic blood in me at all, at all, and I cannot see the justice of compelling a road to operate a jerkwater line into the backwoods to serve a couple of lost hamlets. Neither can I figure out that the Interstate Commerce Commission has any ethical right to order a road to abandon a road that it believes can be made to pay an eventual profit. Some one must pay the costs of these operations and as the professors do not the stockholders do. The wool industry has been having hard sledding lately because, according to some of its leaders, it has not been able to sell each adult American 5.38 ounces more wool each year. It would seem to be just as fair if a wool commission were to issue orders compelling each of us to buy that 5.38 ounces annually. A great industry would be aided and

Over-regulation Has Stifled the Law of Competition

"It may be hoped that the old law of competition may come in again. Perhaps not. Perhaps the professors will be able to stifle it as they have in the past. But it looks to me as though the roads have been regulated into such a ditch that they must get back to first principles and squirm their way out of it."



none of us would be greatly harmed.

Even if we did not want the 5.38 ounces. Even if, in fact, wool scratches us frantic.

But this is only the beginning of the professors' interference in the railroad business. The cost to the taxpayers of the Interstate Commerce Commission last year was something more than $8,000,000 and for that sum 1,400,000 cars and locomotives were inspected and safety appliances were examined and "running boards of material other than wood" were allowed in certain cases and signals and train control systems were tested and refrigerator cars were studied and the weighing of vegetables inquired into and railroad men were told how to handle "efficiently and economically" the cars at exchange points and the engineers were instructed in how to save fuel. One road wanted to put a new container for helium gas into service but the professors said "No." The reason assigned seems a bit obscure to me, but that is beside the point.

The camel has his large, cold body in the tent.

All of these things and a myriad others appear to me to be a part of the business of railroading. My conviction is that if railroad men were let alone they would be able to manage their roads quite well.

Of course, the competition of busses and private cars and motor trucks has raised the dickens with the railroad business. Not long ago the state-owned railroads in Germany worked out a plan to link the truck services which feed the roads with the rail carriers themselves. The promise was made that a cheaper and better and more responsible door-to-door service would be furnished shippers. The professors recommend regulation in the United States. It is admitted that the present regulatory system has not worked so well that any hosannas are being sung, but the theory is that it has gone so far that it cannot be stopped. One regulation calls two. Two call four.

There is one doubtful comfort in the situation.

It may be hoped that the old law of competition may come in again. Perhaps not. Perhaps the professors will be able to stifle it as they have in the past. But it looks to me as though the roads have been regulated into such a ditch that they must get back to first principles and squirm their way out of it. Each for itself. It is

not likely that they can ever regain control of rate making. They earned a raspberry wreath from the people when they had it and it is improbable that they will ever be trusted again. It may be that they will never again be permitted to decide what makes a car serviceable or how to run a switching engine or ice a melon. But I do believe they will be forced to go to scratching their own heads again, after letting the professors do all the scratching all these years.

THOSE air-conditioned trains are a sign of the times, I believe. That is competition of the best sort. They ran roof-full during the hot weather. The Pennsylvania has a $175,000,000 electrifying project on, mostly between Washington and New York, and the other roads must follow suit if they are to hold their business. That rail-zep means finer, faster, more comfortable competition than the world has ever seen if it proves to be practical. The roads have been sheltering under the professorial rule and as a result they have been popping like corn.

If they are to get anywhere, they must get away from the professors and back to railroading.

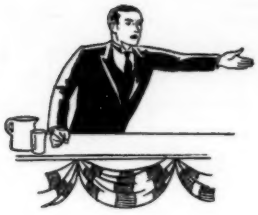
IN the meantime I discover from the Interstate Commerce Commission's report that 4,351 persons have been certificated to practise before it. Surely a $10,000 yearly income is a low average for these talented persons. That is $43,510,000 out of the railroads' treasury. If I know anything about the cost of inquiries by professors I know that for each investigator sent by the government ten men will be put in service by the railroad. Records must be searched, bank accounts examined, testimony taken, clerks and train masters and presidents called from their duties to dangle about getting up statements. The cost of the government's examination into the utilities has been illuminating and—to a person who owns a share of stock here and there—like spending midnight in a haunted house. No one will ever know what the cost has been to the railroad companies.

BUT I would like to know if so many of the roads would have cut their dividends this year if they had been managed by railroad men and had not been chased into catfish caves by investigators.

I never will know. But I know that if I owned a railroad I would hire a railroad man to run it. Likewise I do not believe that a telephone or gas or electricity company is able to give better or cheaper service because its operations are at intervals burst open by professors who believe that when utility men get home at night they slip into a comfortable set of horns and hoofs and begin to sing the Black Mass. I know of one large gas company that has for years been operated on the sound principle that the cheaper gas can be sold, the more gas will be bought. The more gas sold, the greater the profit. That company was investigated—"at a cost of five million dollars."

Who paid the five million dollars?

Not the professors!



The Power Trust, the Politician, and the Plunderbund

PART V

Uncle Sam's War Baby, Muscle Shoals, Is Put to Use for the Making of Political Thunder—

With the approach of the new Congress which convenes in December, to say nothing of the presidential campaign of 1932, the whole subject of utility regulation and government ownership is being pushed to the fore, especially by the liberal-radical group of office seekers. In the following instalment, MR. GREENWOOD tells how the Muscle Shoals project first happened to get into politics, how it happened to stay there, and the political uses to which it is being put at the present time. It is the author's contention that the socialistic doctrine of government ownership and operation constitutes a threat to all industry, and that the time has now come when the identity and purposes of the real "plunderbund" should be revealed to those who think—and who vote.

BY ERNEST GREENWOOD

WHEN the Great War died a sudden and painless death in 1918, unwept, unhonored, and unsung, the United States was left with a lot of war materials and a very considerable number of uncompleted schemes, some of which were good from the standpoint of a war which was going to last twenty or thirty years, some of which were only half-baked, and others which were simply the culmination of political schemes running over scores of years.

We had spent hundreds of millions of dollars developing an airplane industry with which to win the war without supplying so much as a single glider to the boys over the trenches.

We had built hundreds of ocean going vessels in temporary shipyards to carry food and war supplies across the Atlantic, but the great majority of them acquired but little more sea experience than that needed for the successful dropping of an anchor and they either rotted at their docks or they were junked.

We were still dependent upon the factories of France and England for field artillery and for a large part of our ammunition.

Quite incidentally, we had a couple of nitrate plants which cost $88,500,000 and which were destined to become obsolete before they ever

turned out a pound of commercial nitrogen; a steam electric generating station with which to operate one of these plants and which cost about $12,000,000; and a projected dam—the Wilson Dam—on which little work had been done.

In other words, the taxpayers had acquired Muscle Shoals, which, during the past twelve or thirteen years, has given them, as the small boy would say, "a severe pain in the neck."

QUITE properly the United States set about the work of salvaging what it could out of the mess of useless war materials.

Temporary buildings in Washington and in other cities were used as long as there seemed to be any use for them and then torn down if they had not already fallen down. The railroads were handed back to their former owners with a prayer of thanksgiving on the part of the administration which counted itself lucky that the experiment had not cost the taxpayers more than somewhere around a billion and a half dollars. Vast stores of materials of every conceivable kind, including furniture for the use of those participants who got no further than the Battle of Hoboken, were auctioned off to the highest bidder and the money turned in to Uncle Andy Mellon.

But we still had Muscle Shoals.

YES, we still had Muscle Shoals, and this embryo project rapidly became something of a household pet in the Senate office building with various Senate committees fighting for its custody.

Various folks came to Washington, looked at the Muscle Shoals project rather dubiously, and made halfhearted offers to buy or rent. But there were always some Senators who were indisposed to part with it unless they could be sure it had a good home where it would be well fed and exercised only in certain ways according to a strict senatorial program.

One by one prospective bidders slipped away into the night and the American public was left with a rapidly growing white elephant and an annual feed bill which is staggering.

How much better it would have been if it had been put up at auction and sold off to the highest bidder along with the rest of the junk, without reservations as to its future use!

STRICTLY speaking, Muscle Shoals cannot be called a war baby born of the stress of a shortage of nitrogen for the manufacturer of the munitions of war. It has been a subject for discussion and a question of legislation in Congress for more than one hundred years. Generations of Alabamians and Tennesseeans have been born, lived and died, but the Tennessee River Improvement Association under one name or another seems to go on forever.

Incidentally the question of navigation improvement, first presented more than a century ago, is still designated only by a question mark.

NINETY-TWO years before President Wilson dumped the Shoals into the congressional hopper on the recommendation of Secretary of War Newton D. Baker, President Monroe did the same thing when, in 1824, he

submitted the recommendations of Secretary of War Calhoun for the improvement of navigation in behalf of better transportation facilities. Congress authorized the state of Alabama to build a canal around the shoals, the money for construction to be provided by the sale of some 400,000 acres of public lands in Alabama granted by the United States for that purpose. As is usual with government projects (the whole history of Muscle Shoals has proven it no exception to the rule) the funds provided were insufficient to complete the development and the canal was so useless that enterprising citizens built a railroad around the Muscle Shoals rapids. This road now constitutes an important link in one of the great railroad systems of the country.

The folks who lived in those days had one advantage over us. Congress quit talking about Muscle Shoals and as a political issue it remained in a state of suspended animation for more than forty years, only to be resuscitated in 1872 when United States army engineers submitted a plan for the enlargement and extension of the old canal. This plan was afterward adopted.

Work went on from year to year until 1890 when it was practically completed at a cost of $3,200,000. The canal was then in two sections but, unfortunately, between the two sections there was an unimproved stretch of the river over which navigation was dangerous except during high water. During the twenty-eight years this canal was open to navigation it was little used, the maximum total amount of products passing through in any one year being only about 11,000 tons. It bears a strange resemblance to the Alaska Railroad, an enterprise initiated by a later Congress with its own ideas of territorial development.

PRIOR to the passage of the National Defense Act of 1916, which authorized the location of a nitrate plant at Muscle Shoals, citizens of Alabama and neighboring states had been working on Congress for years in an attempt to persuade the Federal government to build a few high dams in the Tennessee for the improvement of navigation and for the generation of hydroelectric power. Their idea was that Congress should provide funds for that proportion of the expense properly chargeable to navigation with private interests providing the balance. With some such arrangement in view, Congress finally appropriated $150,000 for the inevitable surveys in which Congress seems to delight and for an investigation of any chance offers of joint development by interested power companies.

¶ "RESPONSIBLE *officials of the government, contrary to the insistence of certain groups of farm leaders, politicians, and promoters, have gone on record as saying that the Muscle Shoals plants are neither acceptable nor desirable either for the production of fertilizer ingredients or essential in the maintenance of national defense.*"

As usual, many years elapsed between the time of the appropriation and the final report of the army engineers. An Austrian Archduke was "put on the spot" in Serbia—Europe is still arguing as to why—ultimatums flew as thick and fast as snowflakes in an Arctic blizzard, and the World War was on. What was originally designed to be little more than a six months' brawl developed into a world-wide free-for-all fight and, in spite of President Wilson's campaign slogan "he kept us out of war," there was every indication that sooner or later we would be somewhere in the center of things. Army officers understood only too well that if this should happen the need for explosives would far exceed the domestic demand and, if the supply of Chilean nitrates should be cut off, we would be in about the same position as the Russian army found itself at one time during the conflict when it had one useful rifle to every tenth man.

THIS situation provided the chance of a lifetime for those who had been seeking congressional action on Muscle Shoals.

"Improve navigation on the Tennessee river by building a large power dam in order to secure power for the operation of an air nitrogen fixation plant," they said, "and kill two birds with one stone."

They immediately jettisoned all ideas for a joint arrangement with private interests and began a campaign for legislation making an appropriation and authorizing the construction of a nitrate plant for the production of high explosives.

They were successful, as the country knows only too well, and the government's private herd of elephants received an important addition which, while starting in life in the drab colors of a terrible world war, has rapidly whitened with age.

SENATOR Underwood of Alabama, arguing that "it is not only a patriotic duty but a national necessity of the very first order of importance for Congress to insure the establishment in the country of the air-nitrogen industry on a scale adequate to supply the nation's requirements for nitric acid in times of war" added, for good measure, another clever argument in favor of the proposed development which has caused economists the most acute anguish ever since. He said:

> "The second premise is that a people cannot survive the fierce competitive struggle in times of peace without a plentiful and cheap food supply; that a cheap food supply is chiefly a question of securing more food per acre cultivated without an increase in labor; that this defines cheap agricultural fertilizers; that cheap agricultural fertilizers are chiefly a question of a plentiful and cheap nitrogen supply; that the one adequate, cheap, and assured source of nitrogen is the atmosphere. Therefore, it is an economic necessity of the very first order of importance that the country should have a plentiful supply of air nitrogen in the form of a fertilizer."

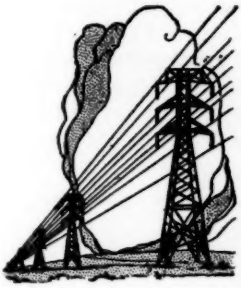
THIS was the first utterance of the battle cry of "munitions in time of war and fertilizer in time of peace" on any public stage, so far as I have been able to find out. The Secretary of War immediately followed it up with a statement in his

Three Courses Uncle Sam Can Follow in Disposing of the Muscle Shoals Problem:

1. SELL *or lease it to the highest bidder, thereby eliminating all possible future chance of expense to the taxpayer;*

2. OPERATE *it through the War Department, selling the energy generated to existing light and power distributing companies at the buss bar on the most advantageous terms possible;*

3. PUT *the Federal government into the business of generating and distributing electric light and power in the state of Alabama and underselling the existing power companies in the territory which would be served by the Muscle Shoals plant—thus putting those companies out of the business.*



annual report that "military effectiveness requires ample quantities of the element (nitrogen) and the proper protection of national security behooves us to make provision for an adequate supply in time of war" and "plants producing nitrogen for industrial purposes in time of peace would be a great national asset in view of their ability to supply us with the necessary nitrogen in time of war."

The report of the Chief of Ordnance for 1915 supported the views expressed by the Secretary of War and the pack was off.

IMMEDIATELY the coöperation of various farm organizations and various leaders in agriculture was enlisted. Appropriate resolutions were adopted by these organizations and pressure was bought to bear on Congress by all sorts of prominent folks throughout the country. Representatives of one or more farm organizations were retained to camp in Washington and importune members of Congress in behalf of the legislation as well as appear before appropriate congressional committees. It was a great lobby and it had just one main objective—the improvement of the Tennessee river.

The President appointed a board composed of business and scientific men for the purpose of recommending a suitable site for the location of a nitrate plant in accordance with the provisions of the National Defense Act. This board promptly turned down the Muscle Shoals site and the President just as promptly turned down its report and appointed another board.

That is one of the advantages of being President. If you appoint a board to make a recommendation backing up something you want to do and it balks, you can always throw it out and appoint one more susceptible to the presidential influence. The new board contained certain members of the Cabinet and it promptly recommended Muscle Shoals (which was what the President wanted all the time and his first board should have known it).

The recommendation was promptly approved.

NITRATE Plant No. 1 was built to use the Haber process for the fixation of nitrogen. No one thought about the necessity for expert knowledge in the construction and operation of a plant using this process (at that time it was comparatively new) and when it was completed at a cost of $13,000,000 it was a flat failure.

In the anxiety over an adequate supply of cheap nitrogen the question of an available supply of scientific and engineering knowledge did not arise. The government, in its business enterprises, has a habit of overlooking these little things.

ADMITTING that they had gotten away to a false start, the horses were all called back to the barrier and nitrate Plant No. 2, to use the cyanamid process—a process which, at that time, was in use on the Canadian side of Niagara Falls—was authorized. In fact its construction was started before the completion of Plant No. 1 for after the United States entered the war it became quite apparent that a more extensive program for nitrate production for munitions of war was necessary.

It cost more than $75,000,000 and it is now obsolete.

It cannot produce nitrogen as cheaply as it can be bought on the present wholesale market.

In connection with these two plants —the flat failure and the obsolete plant—there are numerous buildings for industrial and residential purposes, together with paved streets, electric lighting systems, sewers, telephones, waterworks, about fifty miles of standard gauge railroad, rolling stock and equipment, and several hundred thousand dollars worth of various supplies and materials.

It might be used as a congressional community center.

THIS establishment, covering more than 4,200 acres of land, is a sad and ghostly monument to the government's inefficiency in dealing with a plain, straightforward business problem during the past twelve or thirteen years.

Had the war persisted, Plant No. 2 would have been placed in operation, would have functioned in accordance with its purpose, and the cost, no matter how great, would have been a matter of no moment to a nation engaged in a gigantic struggle with other nations. War is war and no citizen worthy of the name counts the cost once his country is committed to such a cause.

But, also, peace is peace and the problems of peace have many precedents on which to base action leading to their solution. At the close of the war the government had spent about $100,000,000 on the Muscle Shoals

project, including the cost of a steam electric plant built to operate plant No. 2. At that time this was the largest and most modern steam electric plant in the United States and it had a ready market if put up at auction.

Nitrate Plant No. 1 was a failure and its value was the price it would bring as junk.

Nitrate Plant No. 2 would make nitrogen but the development of new processes forecast its complete obsolescence and it should have been sold as quickly as possible.

Wilson Dam, finally completed at a cost of more than $50,000,000, was hardly beyond the blue print stage and should never have been built. The situation would have been simple enough to any business executive or board of directors of a privately owned and operated enterprise. The project was bankrupt and a voluntary petition in bankruptcy should have been applied for.

THERE would be no profit in recounting here the wrangling which has been going on, in and out of Congress, during the past ten years. It is doubtful if any one person is completely familiar with the whole story and it is quite certain that no one person has ever written it or, if he be of this generation, will live to write it. Everybody, with the exception of a few enthusiastic supporters of the doctrine of government ownership and operation of the processes of production and distribution, is entirely sick of the subject. There remains only the question of existing facts which should be examined, not with rose colored glasses or the smoked glasses of gloom, but with the magnifying glass of the U. S. Treasury and illuminated by the sometimes anemic glow of the taxpayer's pocketbook.

The nitrate plants and their appurtenances can be entirely washed out of our consideration. They comprise a war measure and it was supposed that they could be put to some good use in the interests of agriculture in times of peace. They are of no earthly use either in time of war or time of peace.

Responsible officials of the government, contrary to the insistence of certain groups of farm leaders, politicians, and promoters, have gone on record as saying that the Muscle Shoals plants are neither acceptable nor desirable either for the production of fertilizer ingredients or essential in the maintenance of national defense.

The Department of Agriculture has stated:

> "These plants are more or less obsolete and that with power at even two mills per kilowatt hour, with proper charges included, could not

¶ "How *many executives of privately owned and operated electric utility systems can be found in the United States who would consider spending the money the United States government has spent on Muscle Shoals since the war to obtain less than 100,000 horsepower? The mere thought of it would give most of them apoplexy.*"

produce the products for which they are constructed as cheaply as those products are now being sold in the wholesale market."

The President quoted this statement in his message vetoing the latest Muscle Shoals bill. In fact he dismissed the whole subject by saying that "no chemical industry with its constantly changing technology and equipment, its intricate problems of sales and distribution, can be successfully conducted by the government."

As long ago as 1926 Major J. H. Burns, representing the War Department, submitted a written statement to the Joint Committee on Muscle Shoals when he was called to discuss the provision regarding the "manufacture of nitrates and its relation to preparedness" in which he said:

"In other words, our solution of Muscle Shoals does not contemplate that Nitrate Plant No. 2 be continued in operation. It is not necessary. We do believe that temporarily Nitrate Plant No. 2 should be retained in an available condition for operation. We do not believe that that time, in so far as we are able to see the future, extends over five years. It is probably less than five years, because the nitrogen fixation industry has been growing so rapidly that we believe within a reasonably short time we can achieve a solution without even holding the No. 2 plant in stand-by."

At the present time the War Department places no valuation on the nitrate plants in spite of their cost of many millions.

DURING the 10-year debate which has been kept alive only by the exertions of a comparatively small group of persons who seem to have a congenial hatred of all privately owned and operated light and power companies and who look upon the Muscle Shoals hydroelectric plant as a gift from heaven with which to destroy one or more of them, the taxpayers of the United States did have a splendid chance to get out from under and be relieved from any further taxation for the purpose of providing funds with which to pay interest on money already invested in the project by the government or operation and depreciation expense.

In 1928 the Alabama Power Company and associated companies offered to purchase power from the Muscle Shoals plant, under a contract terminable by the government on eighteen months' notice, which would have guaranteed to the government a return of approximately $2,200,000 for the years 1930, 1931, 1932, and 1933.

Concerning this offer I can do no better than quote from a letter written by General Lytle Brown, chief of engineers, on January 12, 1931, and addressed to Congressman Wood. In this letter he says:

"The offer . . . was in the form of a 5-year contract, *cancelable* on eighteen months' notice. The guaranteed revenue which would have been derived had this contract been consummated would have been about $1,650,000 more to the end of 1930 than the revenue received under the actual agreements, and during the years 1931, 1932, and 1933, would be sufficient to pay for operating and maintaining expenses, depreciation, and approximately four per cent interest on the investment in the hydroelectric property. However, this contract was not accepted as its terms

The Question of "Navigation Improvement" in the Muscle Shoals Project Has Been Lost in the Shuffle

"STRICTLY speaking, Muscle Shoals cannot be called a war baby born of the stress of a shortage of nitrogen for the manufacturer of the munitions of war. It has been a subject for discussion and a question of legislation in Congress for more than one hundred years. . . . Incidentally the question of navigation improvement, first presented more than a century ago, is still designated only by a question mark."

would have prevented the prompt disposition of the Muscle Shoals property which it was then expected would be made by Congress at an early date."

(Under the terms of the present agreement which can be terminated by the government at any time the total payments for hydro-power for 1930 were a little less than $600,000 and the minimum guaranteed payment for 1931 is $560,000.)

WAS this offer accepted or even given real serious consideration?

It was not. It came from the mythical "power trust" and had implications—at least for the government ownership and operation advocates—that those who touch pitch shall be defiled. It would have settled the issue entirely to the satisfaction of the public and any such settlement did not come within the scope of the vision of those who wished to retain the Muscle Shoals issue as evidence to prove that the "power trust" is blocking any attempt to help the taxpayer get some return on his money which has been invested along the non-navigable rapids of the Tennessee.

If the issue is not settled by 1933, the taxpayers will have lost more than $6,500,000, which, added to what the government has already received and will receive, would be enough, as General Brown said, to pay operating and maintenance expenses, take care of depreciation, and pay 4 per cent interest on the investment.

I HAVE said in a previous paragraph, that the Wilson Dam, which was hardly beyond the blue print stage at the close of the war, should never have been built.

Under ordinary water conditions, the continuous primary or continuous all-year power at Wilson Dam is less than 100,000 horsepower. Operated in conjunction with the steam power plant, economical continuous primary power of about 200,000 horsepower may be produced. Isolate the Wilson Dam hydroelectric plant from any interconnected system or steam stand-

by plants and its capacity is less than 100,000 horsepower, no matter how you figure it.

How many executives of privately owned and operated electric utility systems can be found in the United States who would consider spending the money the United States government has spent on Muscle Shoals since the war to obtain less than 100,000 horsepower?

The mere thought of it would give most of them apoplexy.

BUT the Wilson Dam was built although the Tennessee River Improvement Association is still waiting for that improved navigation which is supposed to be the only justification for Federal developments on inland waterways, everything else, such as the production of power or the reclamation of waste lands, being considered as by-products within the intent of the Interstate Commerce Law or the Commerce Clause in the Constitution. These by-products are considered as "velvet," so to speak, which makes navigation improvements on streams, that most of the time do not have enough water to float a raft of logs, sound more feasible and less like a general shaking up of the good old pork barrel.

THE dam having been built and power generating machinery installed, there is, of course, no good reason why it should not be put to some sort of useful work. It is a perfectly good plant; it will generate electricity of quite as good quality as any other modern hydroelectric plant; it has cost the taxpayers a lot of money and ruined the traditional poise of many an editor, and it has provided plenty of ammunition for the use of the radicals in the barrages which they persist in laying down to all capitalistic forms of government.

Something ought to be done about it.

It will come before the public once more just as soon as Congress has dusted off its chairs and settled down for the 75th session if for no other reason than to prevent people from forgetting what Senator Norris looks like.

HAVING disposed of all useless scenery such as nitrate plants, model towns, railroads and rolling stock, cheap fertilizer, and farm relief we find before us, just one question:

"What shall we do with a government-owned hydroelectric plant which is in the pink of condition and which is capable of generating 100,000 horsepower of primary power and an appreciable amount of secondary power during periods of high water?"

THERE are three possible solutions to this comparatively simple business problem.

The first solution is to sell or lease it to the highest bidder, thereby eliminating all possible future chance of expense to the taxpayer due to maintenance, depreciation, and operating expense, and obtain some real cash which, in its small way, might help to reduce Federal taxes.

The second solution is operation of the plant by the War Department, selling the energy generated to existing light and power distributing companies at the buss bar on the most

advantageous terms possible. I have shown how the government could have made a long time contract which would have been extremely satisfactory in these days of Treasury deficits, and I have no doubt that some such contract could be negotiated at the present time without too much difficulty.

The third is the solution provided by Senator Norris, which is nothing more or less than a proposal to put the Federal government into the business of generating and distributing electric light and power in the state of Alabama and the underselling (as the President explained in very plain English in his message vetoing the Norris measure) the existing power companies in the territory which would be served by the Muscle Shoals plant—thus putting those companies out of the business and maliciously—I used the word maliciously advisedly—destroying their property.

THIS third solution is nothing more or less than straight political sabotage.

Call it what you will—"confiscation of property without due process of law" or "wilful destruction of property by government agencies created for that purpose"—the principle involved remains the same.

Furthermore, in order to do this the taxpayers must dig down in their pocketbooks for a hundred or so million more dollars for transmission and distributing lines, extensions to plant and what not, to say nothing of the millions of annual operating deficits so feelingly described by Mr. Hoover.

Once this proposal is thoroughly understood it is my idea that the American people will say: "Let it rot first."

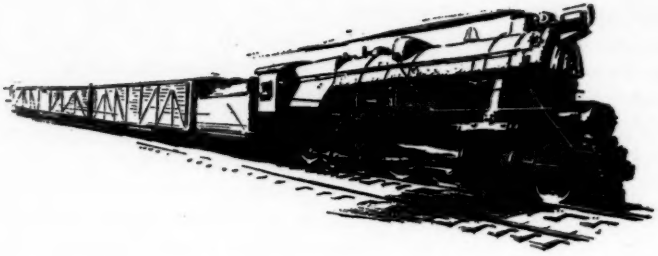
ASSUMING that the taxpayers are entirely fed up with pouring money over the Wilson Dam and will not permit Congress to put the government into business competition with its own citizens, the problem is still further simplified by being resolved down to two alternatives:

(1) The sale or lease of the plant, or;

(2) The generation of electrical energy by the government, doing a cash and carry business at its front door and with any and all who care to buy.

The principle involved in these two alternatives is the same and it matters but little which the government may see fit to adopt. In its attempt to salvage as much as possible out of the junk left by the war it made a mistake—the mistake of building the Wilson Dam.

Well, governments have made mistakes before, just as business men have and always will make mistakes, and the American public has always been more than lenient with honest mistakes. It is far from lenient, however, with dishonest mistakes, and the only honest solution of the so-called Muscle Shoals problem is one which will bring a maximum return to the taxpayers with a minimum amount of distress for any particular group of those taxpayers or any going successful, legitimate American business enterprise.



A NEW RULING FOR

Figuring Depreciation

Why the Interstate Commerce Commission's recent decision which requires a complete system of depreciation accounting by the railroads is of importance to the electric, gas, and street railway utilities

By HAROLD F. LANE

ANOTHER legal battle between the railroads and the Interstate Commerce Commission, paralleling that which has been in progress so long as to the method of ascertaining the value of their properties, seems imminent as the result of an order made public by the commission on September 9th, requiring them, over their persistent protests, to institute a complete system of depreciation accounting.

The new order also applies to the telephone companies, but as they have been practicing such accounting for years, and as it is largely their methods which the commission is seeking to introduce into railroad accountancy, they have not opposed the commission's plan, but have defended depreciation accounting as wise and of benefit to the public.

The gas and electric companies and the electric railways, however, although not directly affected by the new order, have expressed great concern over the precedent to be set in this case, and participated actively in the hearings before the commission, lining up generally with the steam railroads against the proposal.

So far as railroads are concerned the depreciation controversy is to a large extent a part of the old valuation fight and it is expected also that the commission's decision will have an important bearing on the valuation which it is yet to make of the property of the telephone companies.

The direct effect is to require railroads, after January 1, 1933, to include in their operating expenses monthly and annually, and at the same time credit to a reserve, an estimate of the current depreciation of their property units, instead of charging the amount when a unit is finally

worn out or retired for other causes.

The accounting is to be by groups for thirty-five classes of "road" property and eight classes of "equipment," in the case of the railroads and for twenty-four classes of telephone property. The companies are also required to set up an estimate of their past accrued depreciation and to submit estimates based on their experience to assist the commission in prescribing composite percentage rates to be used for the different classes of property.

As outlined by the commission the purpose is to make the accounts reflect currently the fact that the properties are gradually wearing out and to provide for the loss.

What the railroads see in it, however, is a scheme for deducting between four and six billion dollars from their property investment accounts and valuations, to represent past depreciation, (a large part of which they had expected to take care of, under the present accounting rules, by charges to operating expenses in the future), while depriving them of any opportunity to reimburse themselves for what the commission concedes to be an operating expense. They also anticipate an increase in their operating expenses for a while to represent advance estimates of property to be retired in the future, with no assurance that the commission will find the amount important enough to justify higher freight rates, and also with no certainty that the estimates will be adequate for the purpose.

Most property units used by a railroad or telephone company, except land, are retired from time to time for various reasons, such as wearing out in service, inadequacy, or obsolescence. Units so retired may be replaced in kind or by an improved substitute, or not at all. The loss involved in such retirement is concededly an expense of operation and replacement of the loss maintains the original capital investment unimpaired.

Generally speaking, according to the commission's report, there are three methods of accounting for such loss:

(A) it may be charged in bulk at the time of the retirement of the unit;

(B) it may be anticipated and spread as nearly as may be over the estimated service life of the unit by periodical charges; or,

(C) it may be spread over a period subsequent to the retirement.

Of these, (A) is termed "retirement" or "replacement" accounting; (B) "depreciation" accounting and (C) "future" accounting.

Under the commission's present requirements the railroads have observed "depreciation" accounting since 1907 for their equipment such as cars and locomotives, but have used the "retirement" or "replacement" method for their other, or "fixed" property. This practice has been based largely but not entirely on the difficulty of estimating the probable life of track, bridges, and buildings under varying conditions, and, according to the railroads, it represents accounting based on "facts" rather than on "estimates." The telephone companies have practiced depreciation accounting under commission requirements since 1913, but in neither

case has the commission prescribed the percentages.

In its work of valuing the railroads under the 1913 law the commission has followed the practice of deducting about twenty per cent as representing existing depreciation on the various units of railroad property, in spite of the contentions of companies that in a railroad maintained in 100 per cent efficiency there is no depreciation as a whole, although most of its parts are not new, and that a seasoned railroad is more valuable than a new one. This question has not yet been reviewed by the courts specifically, although both the railroads and the commission are able to cite language of the Supreme Court in support of their contentions. And, now, under another law passed in 1920, the commission is taking the further step of requiring current accounting for depreciation hereafter for practically all classes of railway and telephone property.

Its view is that the Supreme Court has held that depreciation must be deducted in determining the value of the property as a rate base, while the railroads point to a decision in which the court said that there must be a deduction for depreciation "if any" and that the fact of depreciation must be ascertained by engineering inspection. This, they argue, means that the existence of depreciation is not proved, or at least measured, by the mere fact that a unit of property has already been in service for a certain percentage of its estimated service life. On this point the telephone companies agree with the railroads.

THE commission says that while it does not follow that the same base should be used in estimating depreciation in terms of money for both purposes, or that the amount of the depreciation reserve will correctly reflect at any given date the accrued depreciation found in valuation to exist in the property, depreciation accounting is necessary to reflect the true cost of operation and that "the same elements which produce depreciation for accounting purposes likewise produce depreciation for valuation purposes, and they cannot properly be observed and taken into account in the one case and at the same time be overlooked and neglected in the other."

SINCE the enactment of the original Interstate Commerce Act in 1887 the commission has had authority to prescribe a uniform system of accounts for the railroads, and on July 1, 1907, depreciation accounting was required for equipment, against the opposition of the roads, although it was left to the companies to decide what percentage rates they should use. Later provision was made for optional depreciation accounting for fixed

¶ "THE *gas and electric companies and the electric railways, although not directly affected by the new order, have expressed great concern over the precedent to be set in this case, and participated actively in the hearings before the commission, lining up generally with the steam railroads against the proposal.*"

property. The commission has also required depreciation accounting for equipment or other "depreciable" property in the case of the electric railways, sleeping-car companies, express companies, water carriers, telegraph and cable companies, and pipe line companies.

By an amendment inserted into the law as § 20 (5) in 1920, the commission was directed to prescribe, as soon as practicable, for all carriers subject to the act, "the classes of property for which depreciation charges may properly be included under operating expenses, and the percentages of depreciation which shall be charged with respect to each of such classes of property."

An investigation has been in progress under the direction of Commissioner Joseph B. Eastman for about ten years. In 1923 the commission's depreciation section issued a proposed report and in 1926 the commission put out an order very much like the one just issued, directing the companies to put the new system into effect on January 1, 1928. At the request of the railroads the order was indefinitely postponed and a new series of hearings were held, followed by a proposed report by Commissioner Eastman in 1929, on which arguments were heard by the commission in December of that year. The final order represents many detail modifications from the original, to meet objections made by the companies, but follows rather closely Commissioner Eastman's proposed report, and is accompanied by another voluminous report written by him, supposed to be final, from which none of the other commissioners have dissented.

THE Presidents' Conference Committee on Federal Valuation, the organization which has represented the railroads in the valuation work, filed a brief on Commissioner Eastman's proposed report, characterizing it as "highly objectionable," as " a revolutionary proposal," and as one which, if made effective, "would injuriously affect the railroads, the investors in railroad securities, and the public." The brief declared "that the retirement and replacement method of accounting, whereby the replacement cost of a retired unit of property is charged to operating expenses at the time of the retirement, provides a more satisfactory and a decidedly more accurate accounting," and the general attitude of the railroads toward the proposal was outlined as follows:

> "They believe, whatever may be the best method of accounting for the operating expense involved in the maintenance of properties, that such accounting is a thing entirely separate and apart from the determination of actual depreciation in the valuation of physical properties and has no relation thereto, and that the proposed report is fundamentally in error is assuming the two things to be one and the same thing.
>
> "They believe that any bookkeeping reserve which carriers may be required to set up out of their earnings as a device for equalizing operating expenses is not evidence of a reimbursement to them by anybody.
>
> "They believe that to charge operating expenses in order to create such reserves simply means a decrease of the net income of the carriers derived from earnings, to the detriment of their stockholders to whom such income belongs, and that the direction in the proposed report that reserves so created be considered as

a 'reimbursement' to the carriers for property retired is fallacious as a matter of economics and is in violation of law.

"They believe that the proposed system of accruing depreciation charges violates the carriers' legal right to charge operating expenses with the cost of maintaining their property and the value thereof, since the order erroneously directs accruals on the basis of investment in the property, or on an assumed approximation of its original cost, and denies the right to charge to operation expenses the current cost of replacements."

WHAT is bothering the railroads now is the question as to how they are to pay for the partial wearing out of most of their property units for the past. It looks to them as if the commission is planning to take the three billions or more of profit and loss surplus which they have accumulated in the past and turn it into a depreciation reserve. And one of the difficulties is that the surplus has mainly been invested in property not yet capitalized and does not exist in cash. If it did the roads would not be cutting dividends so drastically this year.

Thus the order involves much more than the way figures are to be entered in railway accounts. The roads have a property investment account of over $26,000,000,000 and claim their present value is considerably more. The commission has not yet completed the valuation but it has recently made public studies by its bureau of valuation, estimating the cost of reproduction new of railway property other than land as it stood at the end of 1929 at $28,056,475,952, at prices prevailing in the period ended with 1930. The cost of reproduction less depreciation was placed at $22,269,536,110, so that the bureau has deducted $5,786,000,000 or about 20 per cent for depreciation. On the basis of 1931 spot prices its similar estimate shows $5,608,000,000 for depreciation and from its estimate of $22,092,107,618 for original cost at the end of 1929 it also deducted about 20 per cent, or $4,553,000,000. There was also about $602,000,000 of new investment in 1930.

AGAINST this the railroads at the end of 1930 carried in their books a reserve of $1,970,088,680 for depreciation of equipment and $86,134,099 for depreciation on certain road accounts. They also had a profit and loss balance of $3,554,961,596, largely invested in property or securities of subsidiary companies.

The amount of depreciation figured by the bureau of valuation would just about offset the depreciation reserve plus the surplus, and if the roads are no longer to be allowed to charge replacements of old property to operating expenses as they occur there is no other place to charge them except to capital account.

COMMISSIONER Eastman finds it is a "fair inference" from a Supreme Court decision that "the present patrons of a carrier cannot be required "to make up past deficiencies in depreciation charges nor be relieved of any part of their current burden because of past excesses." "If a company has charged too little for this purpose in the past, it is out of luck," he says, "and, on the other hand, if it has charged too much, it is in luck."

Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

JOHN SPARGO
Former socialist.

"The leaders of the electric light and power industry have too often been intimidated into silence."

FLOYD W. PARSONS
Economist and editor.

"The railroads, if they are to operate efficiently, must attract a billion dollars of new capital every year."

TED COOK
Columnist.

"What I spend most of my time worrying about is why we don't have some control of public futilities."

SAMUEL S. WYER
Consulting engineer.

"The money value of the easily avoidable gas waste in California would have paid for the entire Boulder Dam project in less than five months."

MARTIN J. INSULL
President, Middle West Utilities Company.

"The very characteristics (of the electric power industry) that make it attractive to those attacking, may be and can be the instruments of their defeat."

THOMAS F. WOODLOCK
Financial writer.

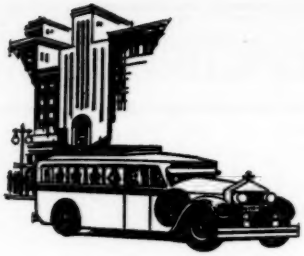
"It is impossible to avoid the conclusion that railroad transportation in the United States needs to be considered *de nova* with a question mark against almost everything that we have heretofore held as settled—and with competition as the first tradition to be required to show cause for its continuance."

ALBERT C. RITCHIE
Governor of Maryland.

"Without meaning to question anybody's sincerity, I may be permitted to wonder whether gentlemen who discourse so extravagantly and so passionately on the subject of government ownership are not really laying down a barrage or a smoke screen with which they hope to hide other issues—such, for example, as prohibition—about which they may not think it wise to speak so boldly."

GIFFORD PINCHOT
Governor of Pennsylvania.

"This is no time to complicate urgently needed legislation for unemployment relief by the long struggle which would be brought upon us by the inclusion of the public utility issue, important and necessary as consideration of it unquestionably is. Let it be understood, however, that I will see to it that the public utility issue is raised in every district in Pennsylvania at the primary election of 1932, as well as in the general election which follows it."



What Commission Regulation Is Doing to the Motor Bus

Some of the problems that confront the carriers—and some possible methods of solving them.

By DONALD C. POWER
ASSISTANT PROFESSOR OF BUSINESS ORGANIZATION
OHIO STATE UNIVERSITY

TODAY America stands at the great economic crossroads and ponders which path to take.

On one side is the continuation of the *laissez faire* policy of nonintervention with business by governmental agencies—the continuation of the Jeffersonian edict that that government governs best which governs least.

On the other hand is the path that leads to governmental regulation to a greater or lesser extent of all commercial enterprise—an attempt to control by legislative fiat the play of economic forces for the benefit of the greatest number.

BECAUSE they are the outworks of commerce, because they are the enterprises most susceptible, by reason of their direct contact with the entire public, to regulation, public utility corporations are today serving as models for the regulatory experiment.

How is it working out?

Does our experience indicate that it is possible to enforce regulation? Or is it, as many believe of our national prohibition policy, an idealistic dream?

The economic path which America would ultimately take depends largely upon the answers to the foregoing questions.

Let us analyze the regulation of just one phase of utility activity—the motor vehicle common carrier, and in just one state, Ohio. However, Ohio is a fairly typical state. Ohio started to regulate the motor carrier about the same time as many other states. It is probably safe to say that Ohio's regulatory problems are a fair sample of the problems of a dozen or more of our more populous states in dealing with the motor vehicle common carrier. Furthermore, the motor carrier

industry itself is most important. It holds in its hand at the present time the destiny of our entire transportation service. The railroads, fighting for their lives, commercial aviation bidding for recognition, inland waterways striving for approval, all wait anxiously for the ultimate verdict on the success or failure of motor carrier regulation.

BEFORE April 28, 1923, any one who desired to engage in the business of operating a motor carrier service in Ohio could do so by merely filing a statement of his operations with the proper highway authorities. On that date the Freeman-Collister Act became effective. It provided, among other things, that no motor vehicle common carrier which carries passengers or property for hire should operate over the highways of the state without first securing a certificate of public convenience and necessity from the state public utilities commission.

One provision of the law, however, permitted all motor vehicle common carriers who were operating as such on April 28, 1923, to obtain a certificate on the filing of an affidavit merely setting forth the fact of their operation and without undergoing the test of public convenience and necessity. As a result, many lines were in direct competition with one another and with other common carriers and competition, rather than regulated monopoly, was the order of the day.

Economic laws, however, have since supplied, to a great extent, the deficiency of man-made laws. Gradually under such conditions, the weak lines have either passed out of existence or have been absorbed in mergers and consolidations with other lines so that an era of regulated monopoly is replacing the former period of free competition.

THE law requiring a certificate of public convenience and necessity as a prerequisite to the operation of a motor vehicle common carrier, has been in effect for over eight years. Looking back over this period, we encounter the question of what has been accomplished. The primary answer seems to be that the factual determination of what constitutes public convenience and necessity for motor carrier service, has been gradually developed, case by case, until at the present time the law is fairly well settled, particularly in so far as it applies to the regulation of the motor common carrier vehicle engaged in the transportation of passengers.

The next question which naturally suggests itself is, what has not been accomplished? The answer to this question, seems to be the effective regulation of the irregular motor carrier of property.

Let us consider the positive result first.

IT was not easy for the public utilities commission and the courts to determine just what constituted "public convenience and necessity." Situations have arisen involving such a conflict of interests that any kind of a decision would be certain to affect one party or group of parties adversely. To illustrate some of the problems with which the commission and the court have been confronted, let us consider the following concrete example:

A and B are cities of fair size lo-

cated about fifty miles apart; the XYZ Traction Company operates between these two termini via various small municipalities. An excellent state highway likewise connects these two cities, but it does not parallel the traction line, nor does it serve the same intermediate territory. Several small municipalities are located along the highway between A and B. There is no public transportation service available between A and B that, at the same time, serves these municipalities. An application is thereupon filed for a certificate of public convenience and necessity to operate a motor transportation line over the state highway carrying passengers between the towns of A and B and the intermediate points.

A protest is filed by the XYZ Company. It claims the bus route is unnecessary. It claims that its own service is sufficient and further, that the bus route will impair the financial security of the rail service. It contends that the service of the motor bus company should, therefore, be restricted to the transportation of persons from A and B to intermediate points along the highway, and that the terminal to terminal haul should be refused.

The bus company answers that if this is done the whole line will become unprofitable.

IN such a case the commission is faced with the problem of refusing to grant the application and thus depriving the small municipalities along the state highway of transportation service between A and B, or of granting the certificate and endangering the future life of the traction company.

The Ohio commission, under such circumstances, and in accordance with the decisions of the state supreme court, generally has denied the unrestricted application of the motor bus company.[1]

A slight variation of this problem is presented in what might be termed a triangular service case. A and B are cities fifty miles apart, forming the base of a triangle which is completed by the fairly large town of C situated at such a point that the route from A to B via C is sixty-five miles. Such is the route of a traction company and such has been the only available means of transportation between these two points until a new highway was built directly connecting A with B, cutting out, of course, C. A bus line now wants to operate over this highway between A and B on a running time of one hour and twenty minutes for a fare of $1.50. The

[1] Stark Electric R. Co. *v.* Public Utilities Commission (1928) 118 Ohio St. 405, 161 N. E. 208.

"THE *motor carrier industry . . . holds in its hand at the present time the destiny of our entire transportation service. The railroads, fighting for their lives, commercial aviation, bidding for recognition, inland waterways, striving for approval, all wait anxiously for the ultimate verdict on the success or failure of motor carrier regulation.*"

traction company's time between A and B is two hours and its fare is $2.

If the certificate is granted to the bus line, the traction company will be driven out of business, causing C to be cut off without any service at all. What is to be done?

The tendency of the Ohio commission has been to disallow certificates in such cases,[2] but recently a contrary decision was rendered in a case where the time and saving obtained by the motor route was quite pronounced.[3]

Of course, the simple example given as a "triangular service case" would be greatly complicated where a connecting or transfer service is involved. Suppose in the last example that the traction company only operated from A to C; at C it connected with another traction company or bus line running from C to B. It would seem that the inconvenience of transferring from one carrier to another in such a short trip as sixty-five miles would be all the more reason for granting authority for the direct route. Yet a decision of the Ohio commission indicates that the bus certificate would be denied under such circumstances.[4]

So much for territorial problems.

Another serious problem which confronts commissions, generally, in attempting to control the operations of motor carriers is the so-called "contract hauler." The contract carrier problem is generally restricted to the transportation of property. There are very few cases wherein the transportation of passengers has been involved that have raised the contract carrier issue.

If a motor trucker holds himself out to carry the property of the public generally and solicits such business indiscriminately, he is certainly a common carrier and as such subject to regulation. But if one farmer has an agreement with his neighbor to haul the latter's produce to market with his own, certainly such activity should not be hampered by commission regulation. Even if the farmer hauls for four or five of his neighbors under a time-honored neighborly agreement—the law and common sense revolts at the idea of making him go to the trouble of applying for a certificate.

But where is the line to be drawn? If the farmer hauls for one hundred neighbors, surely he is making too much a business of it to escape regulation.

In other words, how many customers and what kind of customers will change contract hauler into a common carrier?

This problem has not by any means been peculiar to Ohio. All, or nearly all, of the commissions seem to have had their trouble with it. Some of the state legislatures have attempted to define the distinction between a trucker who is hauling under special contract and not subject to regulation as a carrier, and one who solicits business indiscriminately. Some state courts have attempted the task.

In Ohio the supreme court decided in 1925 that a motor vehicle en-

[2] *Re* Southeastern Lines, before the Ohio Public Utilities Commission.
[3] McClure *v.* Public Utilities Commission (1929) 121 Ohio St. 485, 169 N. E. 560.
[4] *Re* Southeastern Lines, before the Ohio Public Utilities Commission.

Three Possible Remedies for the Present Lax Enforcement of Motor Carrier Regulation:

FIRST. *"The legislature could more clearly define the powers of the public utilities commission in dealing with violators."*

SECOND. *"A more clearly defined and concerted action should be taken on the part of the judiciary in enforcing the orders of the commission."*

THIRD. *"The commission should be given an adequate budget to perform its duties in regulating the motor vehicle operator."*

gaged in the business of transporting property over the highways of the state pursuant to a definite contract, describing the property to be carried, the points of destination, and the price to be paid, and provided that the owner of such vehicle was not holding himself out to the public as willing to carry property for other persons, was not a common carrier and not subject to the regulation of the public utilities commission of Ohio.[5]

Soon after this decision numerous motor propelled vehicles engaged in the transportation of property appeared on the public highways operating without certificates of public convenience and necessity under the guise of "contract haulers."

The problem of regulating this branch of motor transportation thus becomes extremely difficult. Numerous truckers, when cited before the commission for operating as a common carrier without a certificate, defend themselves on the basis of so-called contracts and since these contracts may be oral as well as written, such a defense is not difficult.

In many instances one trucker will have a great number of contracts and some operators have organized a type of coöperative association without any limit to the number of members that may belong thereto and have then entered into a contract with the association so organized to serve any of its members.

The freedom from regulation by the commission, together with the exemption from common carrier taxation, gives this form of operation many advantages over the regularly certificated operators.

THE supreme court of Ohio, in two comparatively recent cases,[6]

[5] Hissem *v.* Guran, 112 Ohio St. 59, P.U.R. 1925C, 695.

[6] Craig *v.* Public Utilities Commission (1926) 115 Ohio St. 512, P.U.R.1927B, 845; Breuer *v.* Public Utilities Commission (1928) 118 Ohio St. 95, 160 N. E. 623.

has somewhat modified its original position relative to contract carriers as laid down in its original contract carrier decision.[7]

In one of these latter cases, known as the Craig Case, the court held that an owner of trucking equipment who employs that equipment partly in the prosecution of his own business and partly in hauling goods and merchandise for the public for hire, is partially dedicating his property to the public service and to the extent of such dedication is a "common carrier."

In the other case, known as the Breuer Case, the court went even further in limiting the activity of the so-called contract carrier and held that one who transports merchandise in motor vehicles over the state highways for hire and who holds himself out to the public as being willing to serve the public indifferently to the limit of his capacity is a common carrier and subject to regulation as such, though in each instance he makes a written contract before transporting the merchandise and refuses to carry for persons who will not sign a written agreement.

In spite of these decisions the contract theory most certainly weakens the regulation of the motor truck operator and if the certificate of public convenience and necessity is to be effective as a means of regulation, further restrictions upon, if not the entire elimination of, the unregulated activities of the contract carrier will be necessary. Coupled with such increased restrictions must come a vigilant and strict enforcement of the law by the public utilities commission with adequate penalties for any violations.

THESE are only a few of the perplexing problems which confront the state commissions, growing out of the granting of certificates of public convenience and necessity. In solving such problems, the Ohio Public Utilities Commission and the state supreme court have attempted to preserve existing transportation lines. Accordingly, much more emphasis has necessarily been placed upon the question of public necessity than upon the question of public convenience. There can be no question but that in each of the foregoing illustrations, the public convenience would be served by the granting of the certificate requested, and yet in none of these cases was the granting of such a certificate necessary. The solution of monopoly problems, therefore, very largely revolves around the extent to which the commission is justified in going to protect existing facilities to the detriment of the public convenience.

LET us turn now to the question of the effective enforcement of the principles of motor carrier regulation heretofore discussed.

Generally speaking, motor carrier regulation in Ohio is fairly effective in so far as the motor bus carrying persons is concerned. The motor bus carrying passengers, attempting to operate over a fixed route without a certificate of public convenience and necessity, is, indeed, in for a difficult time. The certificated operators guard their territory jealously and any attempt by an uncertificated operator to encroach upon their field will meet with prompt and active resistance. As a result the certificate of

[7] Hissem *v.* Guran, 112 Ohio St. 59, P.U.R. 1925C, 695.

convenience and necessity is becoming of increasing importance and value, and the securing of such a permit increasingly difficult.

It is likewise difficult to carry on a successful hauling of passengers on an uncertificated operation surreptitiously—the so-called "bootleg operator" so common in the trucking field is rare in the passenger division of the business. It is true, of course, that the operator who holds a restricted certificate (that is, a certificate which permits him to operate over a given route but limits his transportation of passengers to certain points along the route), is able on occasion to violate his restrictions. Such violations are easily checked, however, and do not become extensive.

THE regulation of the trucking branch of the business has not been nearly so effective and while the certificate of public convenience and necessity is undoubtedly of value to its holder it is by no means a necessary prerequisite to the operation of a successful trucking business.

Accurate figures are not available to disclose the amount of hauling by truck which is carried on by the uncertificated haulers, but an estimate of 80 per cent of the total business moved by truck probably would not be unreasonable.

IN Ohio at the present time, there are 1,177 holders of irregular trucking certificates and 281 holders of regular certificates. When it is considered that there are approximately 180,000 trucks in Ohio licensed by the State Bureau of Motor Vehicles, it becomes apparent that much merchandise is moved by uncertificated haulers. It is true, of course, that many of these trucks are used in private business, or purely local hauls, and it has been estimated that 70 per cent of the total are owned by farmers. Nevertheless, a goodly number are undoubtedly used as common carriers without a certificate of public convenience and necessity.

This difficulty in adequately regulating the trucker is due to a variety of reasons.

In the first place, the provisions in the law as to contract hauling have been a loophole through which many a trucker has squirmed to safety when hailed before the public utilities commission for operating without a certificate. Since the operator can enter into these contracts with numerous

The Two Difficulties in the Regulation of the Trucker:

FIRST. *"The provisions in the law as to contract hauling have been a loophole through which many a trucker has squirmed to safety when hailed before the public utilities commission for operating without a certificate."*

SECOND. *"The average public utilities commission does not possess adequate man power in the way of inspectors effectively to enforce the law."*

persons and with associations made up of innumerable members, the possibilities of avoiding the law through the guise of contract hauling are indeed great.

In the second place, the average public utilities commission does not possess adequate man power in the way of inspectors effectively to enforce the law. There are thousands of truckers operating in every state, from the farmer who owns his one-ton truck and hauls his own and his neighbors' goods to market, to the great lines operating scores of trucks —of all this number in use, perhaps less than 25 per cent possess certificates. To enforce the law, therefore, a large staff of inspectors is an absolute necessity.

However, the inspectors can only check the operations of the various truckers and report their findings to the commission. If the commission feels that the evidence warrants it, it can then cite the operator to appear before it to show cause why he should not be declared a common carrier. If the commission should find that he is operating as a common carrier in violation of the law, it can order him to cease.

But suppose he fails to do so? Then the only remedy available is to proceed with an injunction suit in a common pleas court in a county through which the trucker operates. In some cases an injunction will be granted, in many it will not. Certainly there is no unanimity of opinion among the courts on this subject.

Of course, all of these proceedings take time and the trucker continues to operate for a period which may extend into many months. Only a few of these suits can be under way at any given time, so that while a relatively small number are being prosecuted, the majority go merrily on their way.

Is it any wonder that the public utilities commissions become discouraged with their attempt to enforce the law until the attempt in many instances becomes a mere gesture?

Is there any remedy for this situation, and if so, is the remedy legislative, judicial, or administrative?

Perhaps an absolute remedy cannot be found, but certainly some improvement can be made.

In the first place, the legislature could more clearly define the powers of the public utilities commission in dealing with violators. If the commissions had the power to enforce their orders much might be done.

And in the second place, there could be a more clearly defined and concerted action on the part of the judiciary in enforcing the orders of the commission. Finally, the commission should be given an adequate budget to perform its duties in regulating the motor vehicle operator.

As a whole, the public does not understand and consequently does not appreciate the necessity for regulation; as a result it is not in sympathy with much that the public utilities commission does to control motor vehicle common carriers—a situation which does not serve to strengthen the enforcement of the law.

Certainly, at the present time, the law which regulates motor vehicle common carriers and in particular the trucker is not being effectively enforced in most states.

As Seen from the Side-lines

AFTER the recess; then came the deluge.

* *

CONGRESS will be back, within six weeks.

* *

IF you prefer a Donnybrook Fair, a universal shindy, every man for himself, gouging in the clinches, rabbit punch and all, you will be perfectly satisfied.

* *

YOU may enjoy this carnival without fee or amusement tax, although you will pay the bills, directly in taxes, indirectly through the havoc ensuing or costly omissions.

* *

THE coming session of Congress, just around the corner from us, will be interesting, important, and exciting for two reasons:

* *

1: IT will be obliged to contend with the worst economic conditions in fifty years, and with a thousand and one different solvents for relief:

* *

2: IT will be in session at a time when the issues will be framed for the coming presidential elections and at a time when the ambitious candidates will be scheming multiple plans for their own desires and hopes.

* *

MR. MELLON, when the soldiers' bonus was under discussion and on the eve of vote, estimated a treasury deficit of a billion dollars. There actually existed, as we recall it, a surplus of $700,000,000 when the national comptometers computed the government's trial balance.

* *

Now there is a deficit. It will run over a billion. And depleted individual incomes with which to meet it through taxation. Mr. Mellon, if he could have been right in 1923, would have been a much happier man than he is today.

* *

AND the proposals to overcome unemployment by treasury appropriations will run into many billions.

* *

WESTERN progressives, representing a constituency without surplus income, will propose an increase of the tax on sur-incomes, a hit at the intrenched wealth of the east.

* *

EASTERN conservatives will demand economy, a paring of government expenditures to the bone. Their theory of economic life is that the body will get well if it is fed simple food, without luxuries or fat-making starches.

* *

OPPOSING is the theory that the body needs a few pounds of surplus weight if it is to possess the strength to recover.

* *

THEY both are wrong, I believe.

* *

MR. HOOVER, out of the west, but representing the economic theories of the conservative east, could hardly be regarded as logical in inviting private industry to expand its plant to future needs and in failing to develop the nation's plant to accommodate the increasing needs of a growing population.

* *

A COUNTRY must progress. Unless it is to stand still or retrogress, its schools, highways, sanatoria, rivers, harbors, and millways will be unsuitable to the demands of twenty, ten, or five years.

* *

IN the Mississippi Valley alone three billions could be spent profitably in flood and drought relief, affording cheaper transportation, an outlet from agriculture to industry and from both to the markets of Latin-America, and water-power electricity. An inland em-

pire, with taxable values increasing to meet the costs, would be erected almost overnight.

* *

THE country reduced the national debt at the rate of a billion dollars a year for at least eight years. The income to accomplish this heralded financial achievement was acquired by overtaxation of industry, business, and the public. In short, the people were taxed for more than the current needs of their government.

* *

A COUNTRY that accepts over-payments from uncomplaining taxpayers in their time of plenty could afford to be generous itself in their time of need.

* *

DOLES and charities accomplish nothing of an enduring value. They demean the dignity of able-bodied men who could work if they had work.

* *

WE can disagree with the western liberals because these are not the times to array one section against another. Their desire to help agriculture is commendable, because agriculture constitutes one third of the country and two thirds of the country can not be fully prosperous while the other third languishes in despair.

* *

THE ranking cardinal of the Roman Catholic Church recently radioed the hope that prayer might lead public officials through the crisis.

* *

UNFORTUNATELY, the praying for Congress is done by paid preachers.

* *

IF you want to be sure of finding Congress without a quorum, except on dress occasion, step into the House and Senate galleries when the clergymen begin the daily prayers.

* *

ASSUMING that some level-headed reasoning may be produced, the Congress could appropriate such sums as a great country could afford to supply employment of a useful character and assess the costs through a bond issue or long-termed notes upon that time in the future when prosperity is back and the ability to pay the taxes without a grunt is existent.

* *

THE sales tax is suggested as a means of meeting the emergency for new revenue. The gasoline tax is a form of sales taxation which the public now accepts without grumble. It is easy to collect. You pay it only when you want a commodity. If you don't want it, you don't buy it, and don't pay the tax.

* *

KEEP it off bread, meats, and clothing. Let it fall, such as the amusement tax did, upon those articles which may be regarded as luxuries or semi-necessities.

* *

ALL the above may sound editorialistic.

* *

FRANKLY, it is not intended as such. It is an expression of arguments that will prevail during the coming session of Congress.

* *

THOSE arguments, as here stated, get down to the root of conditions; they show how the two great blocs in Congress will be divided; they indicate the possibility of nonachievement, that is, of an impending session that will bicker, dicker, orate, argue, ramify, and eventually do nothing more than promote the campaigns of the prospective political party nominees.

* *

THE Senate is full to overflowing with men who "live in the delusion of the grandeur" that the country requires them to be President, if the country is ever to get back onto its feet again.

* *

TAKE it or leave it, the Congress session will be a *mêlée*.

* *

THE business man and the fellow out of a job may follow the advice of the cardinal and fervently pray. Because the worst can happen.

John T. Lambert

OUT OF THE MAIL BAG

The Cost of the *U. S. S. Lexington's* Experience as a Power Plant

IN Mr. Ernest Greenwood's article in the September 3rd issue of PUBLIC UTILITIES FORTNIGHTLY, entitled "The Power Trust, the Politician, and the Plunderbund," the author mentions Tacoma in connection with the drought of 1929 and the city's use of the *U. S. S. Lexington* for thirty days.

The author admits that we paid some $75,500 for 4,251,160 kilowatt hours of electricity, plus dockage charges and other costs, which brought the city's expense up to some $93,500. He then mentions that the *Lexington* cost $41,000,000 and that figuring in fuel, upkeep, and payroll, the operating cost is $267,000 per month. He then adds interest on the investment, plus write-off for annual depreciation and obsolescence. He then estimates that the cost of maintenance of the warship during the month she stayed at Tacoma approximates $600,000 and states that the taxpayers of the United States can charge up part of their Federal tax bills to Tacoma.

Mr. Greenwood knows, and you know, and I know that if the *Lexington* had not been at Tacoma, the above-mentioned charges would have gone on just the same. The officers and men would have been fed and paid as per usual. Interest on the investment and depreciation would have gone on just the same. If the *Lexington* had been at sea, the cost would have been a great deal more to the government than it was while she was tied up at the dock.

I mention this matter to emphasize the point that this maladministration of facts, this attempt to distort the truth, does not help the power trust, if we may call it such. It is one of the reasons why the power interests are so cordially disliked and distrusted by many people. Such stories as Greenwood's make no friends for the people you represent because no business man with ordinary intelligence will be misled by such childish reasoning.

Our Chamber of Commerce is at present endeavoring to get renewal of a franchise for the Puget Sound Power & Light Company, a subsidiary of Stone & Webster. This company has been operating in Tacoma for a quarter of a century and the constant attacks on municipal ownership, plus ill-advised legislative programming, are making our problem an exceedingly difficult one.

Municipal ownership of power may be vulnerable to attack, but it ill behooves the intelligent business men who constitute the power industry to circulate false propaganda in an effort to destroy public confidence in it.

—T. A. STEVENSON,
Manager, Tacoma Chamber of Commerce, Tacoma, Washington

EDITOR'S NOTE: *The comments of Mr. Stevenson concerning the use of the Lexington for the purpose of rendering emergency aid to the power plant in Tacoma were referred to one of the foremost naval authorities in the country; his reply follows:*

CONCERNING the costs involved when the *U. S. S. Lexington* was employed in furnishing electric power to the city of Tacoma, I think it a fair assumption that, in general, emergency work is a proper naval function and one of the by-products of the national investment in a Navy. This function is normally extended even to foreign countries, as illustrated by the recent cases of earthquakes in Italy, Japan, Nicaragua, the fire in Smyrna, hurricanes in Haiti and Santa Domingo, and floods in China.

Such employment, however, necessarily lowers the efficiency of the Navy, since it interferes with the intensive training of personnel which has to be constantly carried on, especially in the American Navy in which the annual turnover of personnel is very large. Recruits have to be educated and trained in such ramified specialties as seamanship, tactics, gunnery, engineering, radio, aviation, and military operations on shore.

Unless this be done earnestly and continuously, the ability of the Navy to shoot fast and straight, to steam fast and economically, to operate large numbers of ships in close formation efficiently, and to build up that *morale* and discipline which means the saving of life and property in emergency,—the ability of the Navy in all these and other lines must suffer.

These are the things for which the nation mainly pays the costs of a Navy, and the ex-

tent to which they are impaired by diversions from strictly naval work to emergency duty, represents an intangible charge against the services paid for by the country which it would be impossible to estimate in dollars and cents.

—DUDLEY W. KNOX
Captain, U. S. N. (Retired)

The Experience of European Governments in Railroad Operation

WHEN Charles Edward Russell, in the August 6th number of PUBLIC UTILITIES FORTNIGHTLY, presented his argument in favor of government ownership of the railroads in this country, he made the following observation:

> "If the railroad had been owned by the government and conducted for the public good, when it began to earn a surplus, either the surplus would have been used to reduce the capitalization and consequently the charges that supported it, or there would have been a reduction in rates."

Before we jump to conclusions, let us consider some authentic facts in the actual experience of governments in operating railroads.

THE Belgium state-owned railways charge 1.28 cents per ton per mile for freight transport; they pay their employees (according to the 1929 report) only $430 a year in wages.

Under private ownership the railways of Switzerland charged 2.64 cents per ton per mile. Then Switzerland socialized the lines —and the charge today is 3.85 cents per ton. Wages in Switzerland average $796 a year. To put it in another way: The socialized railways of Switzerland charge 300 per cent higher rates than we pay in the United States. Further, they pay no taxes, pay less than half the wage rate that we pay, and yet they lose from $3,000,000 to $6,000,000 a year.

ITALY tells the same story, with high freight rates of 2.21 cents per mile, and wages at $802 per employee.

FREIGHT rates on the state-owned railways of Sweden are 2.69 cents per ton per mile, or more than 250 per cent above our rates; at the same time wages are $600 a year per employee less than we pay in this country.

IN Norway the socialized railroad lines charge 300 per cent higher rates than we charge.

DENMARK has a socialist at the head of the government and the influence of the social democracy of that nation is second to no other political party. Yet, with a socialist government and the political ownership of her 1,583 miles of railroads, she charges 3.87 cents per ton per mile, or more than 300 per cent above our rates. If the people of the United States were forced to pay that socialized rate, our freight bill would exceed $12,000.000,000 a year as against $4,083,537,298, for 1930.

Would any sane man want to trade our private ownership system for the socialized *regime* of socialistic Denmark?

Even Japan with wages at only $316 a year per employee, charges 30 per cent higher freight rates than we do.

I HAVE already shown in the June 25th issue of this magazine how nationalized railways work out in the Australian states, where rates average some 300 per cent higher than ours, although wages are much lower and the losses so great that the states are almost bankrupt today with their giant debts.

Even in India with her 40,949 miles of state-owned railways, the freight rates are higher than we pay, and wages are only $176 a year per employee.

Ninety per cent of these socialized railways fail to make both ends meet; the operating revenue is not sufficient to pay operating expenses and interest charges on debts.

Yet the socialized railways do not pay taxes.

—F. G. R. GORDON,
Haverhill, Mass.

What the State Commissioners Are Thinking About

SHORTLY after this number of PUBLIC UTILITIES FORTNIGHTLY *goes to press, the members of the state regulatory bodies will assemble in Richmond, Virginia, at the annual convention of the National Association of Railroad and Utilities Commissioners. In the next number of this magazine will appear a summary and analysis of the outstanding regulatory problems which will be there discussed, as well as excerpts from the proceedings that will reveal the opinions of those in whose hands the present system of utility regulation rests.*

What Others Think

Should "Historical Cost" Be the Minimum of a Utility's Rate Base?

A FRIENDLY debate has developed between Page Golson, vice president of the Ford, Bacon & Davis concern, and Harold E. West, the well-known chairman of Maryland's public service commission. This debate, which was presented through the pages of *Electrical World,* has to do with the much mooted question of how much weight should be given to reproduction cost value in determining a utility's rate base.

Mr. Golson presented a rather novel viewpoint; he believes that historical or original cost should be the irreducible minimum of a utility's rate base, making proper deductions, of course, for depreciation. In the August 1st issue of *Electrical World,* Mr. Golson stated:

> "The question of a reasonable commission case rate clearly is and has always been a matter of fairness and equity.
>
> "Reproduction may eventually be lower than historical cost, and whenever that is the case the fair and equitable rate base will take the view that historical cost is the lower limit.
>
> "Certainly the owners of a utility are entitled to earn at least a fair return upon investment made in good faith.
>
> "It would appear, therefore, that the presentation of valuations for rate cases should continue as formerly, but it should be definitely recognized that where reproduction valuations are less than historical cost valuations, the rate base should not be less than the historical cost."

CHAIRMAN West, replying in the September 19th issue of the same periodical, referred to Mr. Golson's statements as "naive." Chairman West stated:

> "I think Mr. Golson must be spoofing. In other words, his proposition is that where valuation based upon reproduction cost is higher, commissions should accept reproduction cost, but where investment cost is higher, commissions should accept investment cost, or, heads I win and tails you lose. So far as the public service commission of Maryland is concerned it will never accept any such doctrine. We will follow in the future, as we have always tried to do in the past, the law as laid down by the Supreme Court. We shall not attempt to change the Supreme Court's rulings which, in effect, have made reproduction cost the dominant element in finding fair value, in order to let the utilities under our jurisdiction earn returns on the highest rate base possible.
>
> "If commodity prices decline materially within the next few years and utilities are faced with reductions in their rate bases because of the following by commissions of the reproduction cost theory, they will be but reaping the harvest which they themselves have sown. No well-managed and conservatively financed operating company has anything serious to fear as a result of such a situation. It may, however, result in a very serious embarrassment to a lot of holding companies whose agents scurried around the country in the last dozen years and bought up operating companies at ridiculously high prices, then insisted on valuations based on the very highest figure for reproduction cost they could get, so as to have the valuation approximate as closely as possible the absurd prices they paid for those properties, and who now may find that they cannot secure a return on money which they have paid out."

ON the surface this discussion might seem interesting but unimportant in view of the Supreme Court's oft-repeated ruling that utility investors are entitled to the rise and must suffer the fall in the fluctuation of commodity prices. But as a practical matter many utilities whose plants were constructed in whole or in part during a period of high prices are beginning to look with genuine alarm at the downward trend

in commodity prices. These plants were financed during a period when a severe drop in commodity prices was not even contemplated. Many of these financial structures were devised to pay dividends upon at least a historical cost basis. Now that the bottom has dropped out of commodity prices and rate earnings must follow downward, and preferred stockholders and bond holders must be paid off, it begins to look as if many utility common stockholders are likely to go light on dividends for some time to come.

Small wonder it is then that those interested in utility investments are beginning to talk about historical cost as the "irreducible minimum" of a utility's rate base. If they could ever get that doctrine across it would be a mighty helpful anchor to the windward. Of course they may never need it.

—J. D. C.

REPRODUCTION COST STILL DETERMINES FAIR VALUE. By Harold E. West. *Electrical World*. September 19, 1931.

What Figures Reveal About the "Tax Free" Kansas Towns

THE more one witnesses the amazing processes of some Kansan logic, the more one is inclined to agree with the statement made in an ancient editorial of the New York *Times* to the effect that "Kansas is a state of mind."

Newest of the surprises from that state are persistent stories of "tax free" communities. Perhaps this is part of the recent formally announced program of certain public-spirited Kansas citizens to publicize the scenic beauty and other advantages of living in Kansas. Perhaps it is the result of the effort of publicity agents for local communities. But whatever it is, these stories of tax free towns have a flavor of advertisement.

Here are two samples selected from the daily press by Mr. H. J. Gonden, publisher of *Public Service Management*. The following is from a well-known newspaper columnist:

> "Of Kansas, you may say, again, with Goethe: Das unbeschreibliche, hier wird es getan. 'The undescribable, here it is done.' Three Kansas towns, Belleville, Chanute, and Colby, run their own utilities and make enough money to get along without taxation."

The following was culled from the writings of a lesser known newspaper syndicate writer:

> "Monte Carlo, Kingdom of Monaco, and Chanute, state of Kansas! Across the world apart, they are strangely different yet strangely akin—in that both have crushed the bogey man—Taxation. From its gaming tables Monte Carlo, most famous gambling spot of the world, garners enough to free its citizens of taxation. Chanute, Kan,. slew the tax ogre by taking over the operation of its own public utilities —gas, water, and electric light and power. In Chanute there are no city taxes, no gasoline tax, no city auto license tax, no merchants' tax—no tax at all."

These passages read well, but they are, unfortunately, contrary to fact, because "believe it or not," as Mr. Ripley would say, 567 residences in the city of Chanute and 725 farms in the county were *on the delinquent list for unpaid taxes*. These properties under state law are advertised in August and sold in September if taxes remain unpaid at that time.

IT is not a sufficient answer that these unpaid taxes were those imposed by the state or county, and not by the city itself. Those who claim Chanute to be tax free make the claim without reservation. But aside from that point, the fact remains that taxes *are* collected in Chanute by the city, as Mr. Gonden shows. Here is an incontrovertible record. It is the Chanute city clerk's annual report:

Special taxes receivable	$23,186.80
Memorial building and special taxes	32,755.77
Special taxes paid before certification	19,652.17
Road taxes	4,099.50
Dog taxes	354.00
Licenses	3,285.42
Burial permits	745.00
	$84,078.66

The amount which was actually contributed by the municipal utilities to the "relief of taxation," after deducting operating expenses and other proper items, was $71,194. The relation which this sum bears to the total city budget is analyzed by Mr. Gonden as follows:

> "So it appears that in this 'tax free' city where the 1930 budget required a total expenditure of $232,983, that $84,078 or 36 per cent of the total was raised by taxation, $12,677 or 5 per cent was taken from accumulated tax funds, $50,406 or 22 per cent was raised by issuing warrants, $14,628 or 6 per cent was taken from miscellaneous city revenue, and only $71,194 or 31 per cent was derived from utilities earnings."

Mr. Gonden goes on to show how much better off Chanute would be if it had expended the amount of its investment in the utilities in 5 per cent bonds. But here his argument is not so compelling, because it is based upon his own claimed valuation of the municipal properties. True, he claims these figures to be derived from "the basis of minimum unit costs set by able engineers." But after all, all valuation estimates are matters of opinion and hence subject to attack. However, there can be no attack on the veracity of a city clerk's report or a sheriff's notice for the sale of property for unpaid taxes.

Assuming that a municipal plant is efficiently managed and prosperous there can be no more excuse for taking liberties with the facts than there can be for a private utility to do the same thing. A successful municipal plant should need no false publicity to merit the confidence of its citizens.

And, by the way, so long as governments exist, there will never be tax free communities. Taxes are measured by the expenses of the government, not by the levy on real and personal property.

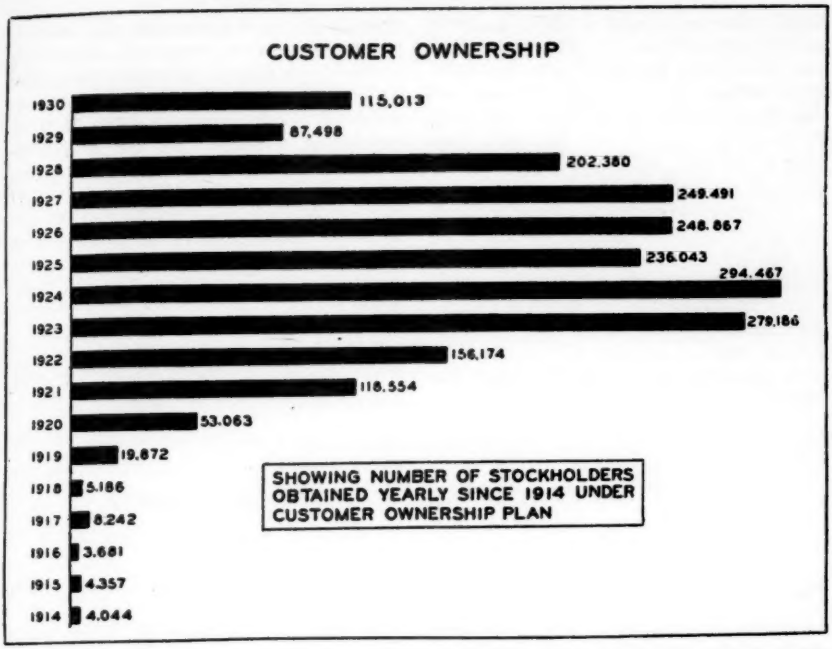
—F. X. W.

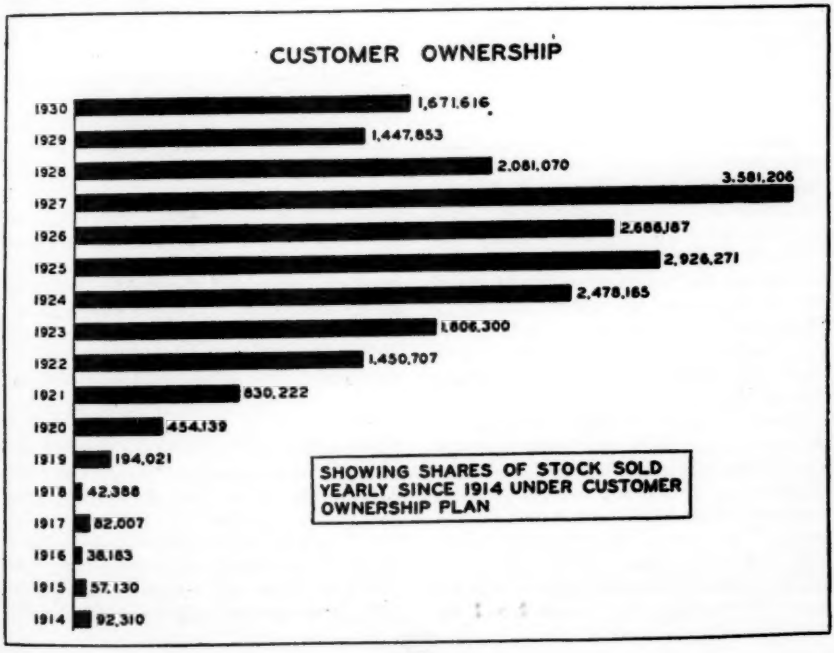
CHANUTE—ITS UTILITIES—ITS TAXES. By H. J. Gonden. *Public Service Management*. September, 1931.

Present Trends in Customer Ownership of Utility Securities

IT is difficult to say with any authority just when the plan for customer ownership of utilities was first thought of, but the 1931 report of the Customer Ownership Committee of the National Electric Light Association shows definitely that it was in 1920 that the wide distribution of utility securities among utility consumers received its first big impetus. It has been gaining ever since barring a slight slowing up during the current economic depression. The two accompanying tables, originally published in the committee's report, tells at a glance better than many paragraphs of text just what progress the customer ownership campaign has made.

One of the main purposes of this movement, of course, was the development of better public relations between utilities and their customers, and to do this it is more important to increase the number of shareholders than the total number of securities outstanding. In fact, the large accumulation of holdings in the hands of single individuals sometimes has the effect of arousing popular antagonism against the so-called "magnates." With this thought in mind it will be seen that the successful presentation of the customer ownership campaign in the last five years has shown signs of sagging a bit, although the total number of shares sold


CUSTOMER OWNERSHIP
1930 115,013
1929 87,498
1928 202,380
1927 249,491
1926 248,867
1925 236,043
294,467
1924
1923 279,186
1922 156,174
1921 118,554
1920 53,063
1919 19,872
1918 5,186
1917 8,242
1916 3,681
1915 4,357
1914 4,044
SHOWING NUMBER OF STOCKHOLDERS OBTAINED YEARLY SINCE 1914 UNDER CUSTOMER OWNERSHIP PLAN


CUSTOMER OWNERSHIP
1930 1,671,616
1929 1,447,853
1928 2,081,070
3,581,206
1927
1926 2,686,187
1925 2,926,271
1924 2,478,185
1923 1,806,300
1922 1,450,707
1921 830,222
1920 454,139
1919 194,021
1918 42,388
1917 82,007
1916 38,183
1915 57,130
1914 92,310
SHOWING SHARES OF STOCK SOLD YEARLY SINCE 1914 UNDER CUSTOMER OWNERSHIP PLAN

consistently increased. Thus, in 1914 the average number of shares per sale was 22.8; this decreased steadily until 1923 when the average number of shares per sale was but 6.5. In 1924, the number rose to 8.4 and has continued to rise until in 1930 it had mounted to 14.5.

Of course, large investments by wealthy single investors have helped to drag up the per customer total, and the utilities are still probably selling single shares to consumers of modest means, as originally planned.

One notable feature of the committee's report is the finding that customer-owned securities are far more widely distributed in fields where the individual utilities have conducted campaigns to that end, than in communities where ordinary stock salesmanship methods were pursued. These campaigns were conducted through the use of instalment sales without interest or with nominal interest or other charges, and the establishment of ready resale markets for small lots of securities. All of which would indicate that much work remains to be done along the same lines.

—M. M.

REPORT OF THE CUSTOMER OWNERSHIP COMMITTEE. National Electric Light Association. New York City. 1931.

Why the Street Railways Must Appeal to the Public's Selfishness

SOME men will be remembered in history for having spoken a single sentence. Sometimes these sentences contain lofty sentiment, such as the remark by Henry Clay to the effect that he would rather be right than president. Sometimes they are humorous, such as the observation by the late Vice President Marshall on the crying need in this country for a 5-cent cigar. Sometimes they are downright unfortunate. Of the last class was the remark by old Commodore Vanderbilt—made well over thirty years ago—a remark for which he will be remembered when his position in the commercial world of his day is forgotten, if, indeed, it has not already been forgotten by most of us. Commodore Vanderbilt was the gentleman who made that immortal statement: "The public be damned."

Merle Thorpe, editor of *Nation's Business*, addressing the recent convention of the A. E. R. A. at Atlantic City, gives to us at this late date the inside story of Commodore Vanderbilt's statement. Not that it matters much of itself, but it is typical of the way small seeds of misunderstanding have sprung into tall barriers that now stand between big business concerns and public affection for them.

Merle Thorpe knew the editor of a Cleveland paper personally. That editor told Mr. Thorpe that he once sent a reporter to interview Commodore Vanderbilt. The reporter did not go about his assignment promptly. Instead he engaged in a poker game and then suddenly at three o'clock in the morning he remembered his job. He got the Commodore out of bed and asked for an interview. The Commodore sleepy, annoyed, and shivering in his nightshirt refused. The reporter insisted. He said the public demanded an interview. The old Commodore snorted, "The public be damned at three o'clock in the morning," and slammed the door. And who could justly blame him?

But the story that went out over the press wires told nothing of the extenuating circumstances. It merely informed the world that the Commodore had said the public be damned, and so the old Commodore has been embalmed in history as a greedy, heartless old corporation Titan who cared for the public only to the extent that he could use the

public. He has become a type. Other businesses have been accused of following his "policies."

Public utilities in particular have been accused of adopting "Vanderbilt tactics."

MR. THORPE showed how the electric railways got the backwash of this antipathy. The Vanderbilt incident was only one of the many unfortunate blunders in that formative period when the two words "public relations" had not yet come to be associated in their present sense. But the mold of public opinion once cast is not easily changed, and electric railways today, even though they are obviously passing through the most critical period of their existence, continue to get cold looks and hard words from an unsympathetic public.

Of course, most of us know all these facts. Merle Thorpe's purpose in going back over the matter is because he thinks that even at this late date something can be done about it. He did not go all the way down to Atlantic City to tell the railway men something they knew only too well. He went further than merely observing that the railways, developing as they did in the trust-busting nineties, inherited a mess of bad public relations. He named names and placed blame. He thinks that the blame rests chiefly on the public for being too unintelligent to realize that a sound railway service is to its own advantage. He blamed also the press for being unfair and dishonest, as in the Vanderbilt incident.

CALLING the public dumb is a rather fearless statement for anyone to make, particularly a magazine editor, but Merle Thorpe is no pussyfooter. He apparently thinks the public *is* dumb about a great many things and most of us think the same but we are afraid to say so in print.

But what then? Suppose the public is dumb. Suppose the press has been unfair. Suppose the railways have been imposed upon. What can be done about it? An accurate diagnosis is half the cure. Mr. Thorpe seems to think that the public can be won over to sympathy with the electric railways through appeals to its selfishness. He stated:

> "If the public would regard your problems with a purely selfish interest, would realize that it is a national industry and not local; if it would approach local problems with this broader outlook, such an attitude would greatly benefit the public. I say a purely selfish attitude should dictate a different course.
>
> "It is not alone the preservation of a five-billion dollar investment. The problem is much more far-reaching than that, because, as that investment is impaired, billions of dollars of real estate and business will be affected. It will permeate the entire economic life of the modern city. Industrial efficiency, cost of living, and the housing of industrial workers are involved. In fact, I think it quite probable that the impaired service of urban transportation companies during the past ten years, of inadequate earnings and unsettled future, has been a factor in their inability to meet changing conditions and requirements, and has already had far-reaching effects upon the distribution costs of business, upon property values and upon physical trends in the growth of cities. Certainly it has accentuated the effect of growing traffic congestion upon the accessibility and consequently upon the value of business properties."

There, in a nutshell, is Merle Thorpe's donation of advice to the electric railway industry. The burden of the task, of course, is upon the industry. It does not matter that the industry is not to blame for the public's unfair attitude. It is up to the industry to change the public's attitude or suffer from it. This can be done not by cajoling, flattering, or trying to sell the public the idea that street railway men are deserving people and not half bad sports. The time for that method is past. The public must be shown in dollars and cents that it pays to have a paying railway service. The industry must appeal to Mr. Average Man's selfishness!

—F. X. W.

SPEECH: By Merle Thorpe before the American Electric Railway Association Convention at Atlantic City, N. J., September 28, 1931.

A Revealing Study of Distribution Costs of Electric Power

SOME months ago our Ambassador to Germany, the Honorable Frederick Sackett, startled an otherwise complacent international meeting of power engineers in Berlin by his now famous announcing that electricity was the only commodity he knew of that retailed at a price more than seventeen times its production cost. Apparently the Ambassador did not recall the price which prevailed for pork chops at the Senate restaurant while he was Senator from Kentucky, as compared with the price per pound obtained for pork on the hoof by farmers of the same state during the same period.

But that is beside the point. Although the Ambassador's statement may have been open to comparative argument, it did at least focus the attention of the power industry and, to some extent, of the public upon a subject that needs much attention—the cost of retail electrical distribution.

If a kilowatt hour of electrical current costs but a half cent to generate yet is sold from 5 to 10 cents to the ultimate consumer, it is up to the electrical industry to show the why and wherefore of the "spread," or else labor under a suspicion of extortion. The suspicion may be, and probably is, unfounded, but nevertheless there it is and the industry must suffer from it. This was well shown by the more recent attacks of Governor Pinchot, upon the failure of the power engineers to show that the present cost of retail electrical distribution is warranted.

IT will not avail the power industry to point to other wholesale and ultimate retail prices, such as meat on the hoof as compared with retail prices in restaurants, regardless of how much unregulated businesses may charge for their various products; a public utility must be prepared to show that its own operating costs are "reasonable." That is the spirit of regulatory law, and it must be said in favor of the electrical industry that it has of recent months accepted the challenge and has shown some indication of working hard to shed light upon a very dingy corner of its operating account book.

But the electrical industry has not been alone in an attempt to reveal the details of electrical distribution costs. Governor Roosevelt's St. Lawrence Power Development Commission has shed more than a few beams on the subject in the course of its recent studies as revealed by the former secretary of the commission, Mr. S. Burton Heath. True, the distribution cost data were but by-products of the commission's real purpose, but they are, nevertheless, interesting.

Interpreting these reports, Mr. Heath stated:

> "The marketing report places the cost of generating current at Massena Point, at 100 per cent load factor, in the plant designed by the engineering advisers, at 1.38 mills per kilowatt hour. But if current were delivered to New York city on a 10 per cent load factor only one tenth of the possible output would be used. The actual cost of the portion used, at the power plant, would become 1.38 cents, and the cost to a small householder in New York city, if there were no other customers, would become 18.43 cents."

Mr. Heath goes into rather illuminating detail by means of tables to show the estimated cost of St. Lawrence energy delivered by the state-owned system to different load centers, based upon different percentages of load factors. Whether or not the existing spread between cost and generation and rates to domestic consumers is reasonable to either the utility or the customer is not definitely established by these studies, but they do throw light on why some such differential is inevitable.

ST. LAWRENCE POWER STUDY REVEALS DISTRIBUTION COSTS. By S. Burton Heath. *Electrical World*. August 15, 1931.

How Scranton Jazzed Up Its Street Car Service

TIMES are hard in Pennsylvania mining towns and Scranton is no exception. With many of the mines closed, the street railway officials began to see more and more red ink on their books. Something had to be done. The Scranton traction officials thought a long while. Finally one of the officials walked to the outer office and giving a bright young lady some carfare he told her to go take a ride, and not to come back until she had figured out what she would do to make the street cars more attractive. The official had decided that the street railway business could not pick up until the Scranton street cars had something more to offer than everyday humdrum street car service.

So the young lady went for a ride. She came back with some red-hot suggestions—just the sort of suggestions one would expect from an attractive and alert young lady.

She wanted the street cars painted apple green with jade trim. She wanted the seats covered with cretonne of a color that would shout, "Hallelujah!"

The Scranton officials did not throw up their hands and groan "Just like a woman!" Instead they painted some cars green with jade trim and covered the seats with brilliant cretonnes. And what is more, they painted the cars many other colors. Probably many a grizzled miner scratched his head and contemplated signing the pledge as he witnessed a pale mauve street car swing around a Scranton corner, followed by another painted a baby blue with silver polka dots.

THIS was the interesting story told to an A.E.R.A. luncheon at Atlantic City by H. H. Dartt of the Scranton Railway Company. He said it was a desperate chance but he claims that it is paying dividends. Twenty minutes after the first apple green car went out of the barn, the whole town was talking about it. The talk was not all complimentary. The company received no small amount of "kidding," for Scranton is a coal town. But the company kept at its program. Some ladies began to call up to find out where the company bought its cretonnes. Mr. Dartt says that after that he felt the company was making progress.

The program did not stop with merely jazzing up the street cars' color schemes. A number of improvements were made. Seats were taken out of the busses to provide more leg room. Baggage racks were raised to prevent Scranton's tall "he men" from bumping their heads when they sat down or got up. Advertisements were run in the newspapers containing testimonials from well-known citizens, with pictures showing them getting on or off the street cars. Mr. Dartt continues with the following statement:

> "You see, we couldn't do many startling things, so we just tried to do as many little things as possible. And everything we did had one aim—to give people a better ride for their money. With these busses we cut the former street car running time for a 16-mile run by forty minutes, and our business grew. We were giving better service than ever before; people appreciated it and began to use our service. When the merchants realized our cars and busses were carrying more people into Scranton we didn't have to ask for coöperation any longer—they were glad to give it to us because we were helping their business."

Now it is becoming the fashion again for leading citizens to ride the street cars in Scranton. The local business men have become enthusiastic. They appreciate the advertising value of a street-car service that is different. Mr. Dartt admits that the new program did not pull the company out of the "red" entirely, but this he blames on the depression. With the coming of good times he expects his company to show a smart pick-up in business.

—M. M.

SECURING COÖPERATION OF BUSINESS MEN IN SCRANTON. Address by H. H. Dartt before the A.E.R.A. Convention at Atlantic City, September 30, 1931.

The March of Events

Law Is Suggested for Federal Control of Interstate Gas

A COMMITTEE of the National Association of Railroad and Utilities Commissioners has prepared a bill to provide for the regulation of the interstate gas business for introduction in the coming session of Congress. This measure was drawn up for consideration at the annual meeting of the association at Richmond, Virginia, October 20th to 23rd.

The proposed bill provides that it shall not "be construed in any way to diminish the existing powers of the states to regulate the rates and service of gas utilities, but the same shall be construed as intended only to confer jurisdiction upon the commission to regulate such wholesale gas business in interstate or foreign commerce as is conducted under such circumstances as to be beyond the reach of state regulation. Nothing in this act shall affect the powers of taxation in the several states." The bill is to replace one introduced by Senator Capper of Kansas. The *United States Daily* informs us:

"The drafting of the new bill resulted from a conference of state commission representatives at St Louis, Missouri, last January upon call of the Kansas Public Service Commission, at whose instance the Capper Bill had been introduced. At this conference the conclusion was reached that the Capper Bill should be revised and a committee was appointed to consider such revision in conjunction with the executive and legislative committees of the National Association.

"The measure now to be considered by the state commissioners provides for the creation of a Federal Gas Pipe Line Commission which is to be composed of three members.

"Instead, however, of conferring upon this commission jurisdiction over all interstate gas business, the proposed new bill would authorize the commission only to regulate the rates and service of utilities engaged in the transportation or sale of gas sold or to be sold to the public in interstate or foreign commerce in wholesale quantities, 'so far as such rates and service are not now subject to regulation by the states, saving to the several states their existing jurisdiction to regulate the rates and service of gas utilities engaged in the sale of gas to consumers within the respective borders of such states, and the transportation of gas wholly within such borders, whether or not such sales to consumers to be in interstate or foreign commerce.'

"The bill provides for 'an agency of the United States' to which the commission may refer a complaint respecting the rates of a wholesale gas utility. This agency is to be known as a joint board, composed of one representative from each state in which the gas covered or to be covered by the rates complained of is produced or consumed.

"Such a joint board, the bill provides, shall have all the rights, duties, and powers conferred upon the commission, except the power to make a final order upon any matter referred to it.

"The commission is given power to regulate the rates of wholesale gas utilities and to suspend any proposed increase. It is provided, however, that a utility may make such increased rates effective, notwithstanding a suspension order, upon filing with the commission a bond conditioned to secure the refund to the persons entitled thereto of the amount of the excess, if the rates so put into effect are finally determined to be excessive."

Alabama

Electric, Gas, and Street Car Rates Are Assailed in Birmingham

PETITIONS have been filed with the public service commission by a resident of Birmingham asking a reduction in gas, electric, and street car rates. The city commission, according to newspaper reports, has refused to intervene in the proceeding. The petitions are directed against the Birmingham Electric Company.

The substance of the complaint is that rates were fixed some time ago when the cost of materials, labor, and general operating expenses was high, but that since that time changed economic conditions have materially reduced costs. Other commodities, it is declared, have decreased from 25 to 50 per cent.

California

Lower Costs Are Urged as Basis for Lower Rates

THE city of San Francisco has started a new proceeding to obtain reductions in gas and electric rates. A petition to the commission directed to the Pacific Gas and Electric Company was being prepared by the city attorney pursuant to instructions of the board of supervisors, says the San Francisco *Chronicle*, which continues:

"It reopens the natural gas rate case of March, 1930, when the commission established tentative rates for the new fuel being used for the first time here. It also reopens the electricity rate case of early in 1930 when a reduction in rates, saving $675,000 annually to consumers, was won by the city after more than a year's battle before the comission.

"The rates established in both cases in 1930 were interim rates and it was, in effect, agreed upon at that time that the cases could be reopened either by action of the railroad commission or on a petition from the city or the company.

"Because the use of natural gas was new in San Francisco, the commission was without any precedents on which to fix the rates. An entirely new schedule of rates was adopted with reductions running from 10 per cent for small consumers up to 40 or more for large consumers.

"In asking for another reduction in electricity rates, the city's petition will point to the addition of large hydroelectric plants by the company which have lowered the cost of electricity and to the addition of steam driven plants using natural gas, which is costing the company much less than oil formerly used by the company. . . .

"The gas rate reduction will be asked on the grounds that there has been a large increase in domestic and industrial consumption, while the cost of the fuel delivered in San Francisco has been lowered through increased pipe line facilities."

District of Columbia

Modification of Consent Decree by Commission Is Opposed

THE Potomac Electric Power Company has filed a bill in equity court to restrain the public utilities commission from enforcing the terms of an order modifying or changing the consent decree of the same court under which rates had been annually adjusted for six years. The order of the commission was designed to affect the new rates to be set in December for the 1932 calendar year, and, according to the Washington *Star*, would probably mean lower rates than those available under the consent decree.

The company contends that the order is illegal for numerous reasons—among these, that it is indefinite, uncertain, and vague and that at the time it was made any investigation of the rates effective since January 1, 1931, if otherwise proper, was premature. The company also contends that the order was adopted without any complaint or inquiry as to any of the existing rates, and without a finding of fact that the existing rates were unreasonable, and without any finding of fact as to the amount of rate base, earnings, and operating expenses of the utility. Quoting from the Washington *Star:*

"The company states that it is the duty of the commission to construe the consent decree so as not to violate its provisions, but that this was not done. On the contrary, according to the company, the commission's order has misconstrued, misapplied, and violated the purpose and content of the public utilities act, and the order prescribes confiscatory rates of return, independent of and unrelated to any proceedings properly before the commission.

"According to the consent decree, the commission and the company agreed to a compromise valuation of $32,500,000 on the corporation's properties, and each year the rates were adjusted so as to yield the corporation 7½ per cent return on this value, plus net additions, weighted but underpriced to date.

"If the resulting return in any year should exceed 7½ per cent, then the rates for the following year were to be designed so as to recapture half of the excess earnings by way of reduced rates.

"In actual practice, however, the rates never brought the return down to 7½ per cent. Each reduction brought the company so much more business that the return stayed steadily around 10 per cent. This, the commission held, was unreasonably high, so that early this summer after public hearings they ordered a new sliding scale of rates to take the place of the scale in the consent decree.

"The new scale gives the company a 7 per cent return on the agreed valuation, and if

the return exceeds this by not more than 1 per cent, then the rates for the following year are to be adjusted so as to take up one half of the excess. If the earnings are between 7 and 9 per cent, then three quarters of the excess is to be taken up, and if the earnings are more than 9 per cent, then five sixths of the excess is to be taken up.

"There are also provisions for adjusting the rates in case the return should fall below 7 per cent."

Commission Plans Investigation of Taxicab Rates

THE public utilities commission on September 21st announced its intention to inquire into the taxicab business in the city of Washington where there has been an epidemic of rate slashing by the competing taxicab operators—damaging to the street railways as well as the operators.

The Merchants and Manufacturers' Association, according to the Washington *Post*, had demanded that the commission fix taxicab rates and closely regulate operation of taxicabs. Richmond B. Keech, people's counsel, and William A. Roberts, assistant corporation counsel specializing in utility matters, also sought to have the commission hold a public hearing on the question, out of which they hoped a code would come giving greater control over the taxicab business. The *Post* states:

"The Merchants and Manufacturers' letter was based on sentiment of members of the association, which include representatives of the street car companies and the large taxicab operators, all of whom are determined in their opposition to the rates charged by the large number of independent operators of cabs in the District.

"The plea of Keech and Roberts was prompted by the recent notice filed by a number of independent operators that they intended to cut down the zones within which they would carry passengers at the advertised 20-cent rate. Under the new schedule, filed with the commission last week, these operators would cut the area of their first zone in half or less. Thus, under the new schedule, it would cost 40 cents to go from downtown to anywhere near the limits of what was formerly their first zone.

"Keech and Roberts believe there should be set up a system of rates which would be uniform for meterless cabs. The board of governors of the Merchants and Manufacturers Association, whose sentiments were expressed in the letter made public by the association secretary, described the competition of the taxicabs as unfair to the street car and bus companies. Although the street car companies are operating on a 10-cent cash fare basis, obtained from the courts over the protest of the utilities commission, the association urged that the commission should fix rates and regulations governing taxicabs to eliminate the alleged unfair competition."

Georgia

Electric Rate Reduction Is Sought in Atlanta

THE Atlanta city council has instigated a movement to obtain a reduction of electric rates for domestic consumers, according to the Atlanta *Journal*. It is asserted that the public service commission's statistics show that the Georgia Power Company's profits are greater this year than last. The contention is made that in times of financial stress, particularly, the benefit of such revenues should be passed on to the consumer, and that electric rates should be readjusted downward in harmony with the reduced earning capacity, the increased value of the dollar, lower wages, and cheaper commodity prices.

City Attorney Mayson, pursuant to action by the council, on October 1st filed a petition with the commission asking that the power company be ordered to produce evidence that there should not be a "material downward readjustment of electric rates for lights and power."

Indiana

City Plant Resists Demand for Rate Reduction

A PLEA for the continuance of the existing rate schedules of the Richmond municipal electric plant is made by Ray K. Shiveley, city attorney, in a brief filed by him with the public service commission in connection with the petition of the Richmond Manufacturers Association for rate revision, according to an item published in the

Richmond *Palladium & Sun Telegraph.*

What is a proper rate of return to the city upon its investment is declared to be a matter of judicial discretion to be determined by the commission upon all the facts and circumstances and necessities of the plant as they appear in the evidence. The city maintains that the present rates are proper, just, and reasonable, and that the history of the plant shows that all of the earnings received by the city have been required for plant maintenance, operating expenses, depreciation reserve, and plant betterments and additions.

The city, according to the brief, has determined and elected to make a fair return upon its investment of not less than 7 per cent. It is likewise contended that the city should create a depreciation reserve at a rate of not less than 3½ per cent and perhaps at 4 per cent. The Manufacturers Association contends that present rates are excessive and unreasonable.

Contract to Secure Rate Reduction Is Questioned

THE public service commission has been considering a plea for an electric rate reduction in Franklin and incidentally has been scrutinizing a contract between Jap Jones, a Martinsville business man, and the city of Franklin under which Jones was to seek lower rates on a commission basis. The Indianapolis *News* states:

"Harry K. Cuthbertson, member of the commission, who began an investigation of the Jones contract on the ground it is champertous, obtained a copy of the contract from the Franklin attorneys. Commissioner Cuthbertson had announced that he intended to question Jones about the character of the contract, but Jones did not appear.

"When a copy of the contract was produced, Carleton Shuck, Franklin city attorney, at the same time filed with the commission records of the Franklin city council which showed that the Public Service Company of Indiana, an Insull utility, had promised to reduce city light and commercial power rates more than six months before, but had not done so, and, further, that citizens of Franklin had been seeking reductions for two years.

"Shuck, assisted by George B. Staff, Franklin lawyer, objected to the questioning of Miss Louise Strohmeier, Franklin city clerk, and to introduction of the Jones contract, on the ground that contractual relationships between the city and Jones were beyond the jurisdiction of the commission, particularly since the city was not actually a party to the petition signed by eighteen Franklin citizens.

"Staff's objections to Cuthbertson's inquiry were overruled. The attorney insisted the commissioner was attempting to invade the realm of the judicial and was overstepping the power specifically given the commission by the legislature. He cited numerous court decisions on the point. Cuthbertson said he believed the commission had the power to decide whom it would recognize as an agent for petitioners."

Maryland

John Doe and Shad Roe Sign Referendum Petition

A SUIT has been filed by the Yellow Cab Company of Baltimore in circuit court charging fraud in the circulation of the petition demanding a referendum on the taxicab regulation bill passed by the last legislature, it is reported in the Baltimore *Evening Post*, which adds:

"The petition, containing 16,000 signatures requesting a public vote on the taxicab bill, was presented several months ago to David C. Winebrenner, 3rd, secretary of state, who ordered the referendum to be placed on the 1932 ballot.

"In the meantime, the legislative act requiring all taxicab owners to provide ample insurance or bond to protect possible damage to property or injury to persons, cannot be enforced. It was designed to go into effect January 1, 1932.

"The suit today charges that many signatures on the petition 'appear to have been forged.' Many others, it was asserted, were palpably fictitious, including such names as 'John Doe' and 'Shad Roe.'

"Although the law requires that only qualified voters may sign such a petition, many of the signers gave out-of-state addresses, and others were not voters, the complaint charges.

"Investigation by the cab company disclosed, it was declared, that the petition originated in the office of a cab company doing business in Baltimore. Cash prizes were said to have been offered to employees bringing in the greatest number of signers. As a result, the suit contended, the petitions were placed in restaurants and other public places, and signed by individuals without adequate knowledge of the nature of the petitions.

"The suit asks that Winebrenner be re-

strained from taking action on the petition and the board of election supervisors be restrained from placing the referendum on the ballot. In addition, the cab company asks a mandamus to compel the public service commission to place the new regulations in effect next January as required in the original law."

Massachusetts

Governor Refuses to Review Commission Rate Order

GOVERNOR Ely, according to the New Bedford *Standard*, has informed a customers' committee from New Bedford that their remedy is an appeal to the court rather than to the governor when they are dissatisfied with a ruling by the public utilities commission. The commission recently denied an application for lower electric rates, stating that the present rates were as low as those existing in other cities of the same size and that increased taxes and decreased revenues made this an inopportune time to reduce rates.

Representatives of the customers had demanded the immediate removal of the entire membership of the commission on the ground of "inefficiency." They complained that the commission had failed in its duty to interpret the law that "a corporation shall not, except as otherwise expressly provided, transfer its franchise, lease its works, or contract with any person, association, or corporation to carry on its work without the authority of the general court." Three contracts of the New Bedford Gas & Edison Light Company for management, construction, and purchasing services were produced, and it was pointed out that these were subsidiaries of the Associated Gas System and that the giving of the contracts amounted to a transfer of the control of the works in violation of law.

Chairman Atwill, of the commission, has informed counsel for the customers' committee that the records of the hearings have been put in order for an appeal to the supreme court should the committee desire to take such a step.

Michigan

Rate Controversy Involves Lamp Renewal Practice

THE city commission of Pontiac has voted to appeal to the Michigan Public Utilities Commission to obtain a reduction in electric rates from the Consumers Power Company, it is stated in the Pontiac *Press*. This action followed the failure of the city authorities and company officials to negotiate an agreement on rates.

An effort was started in August, 1930, by city officials to obtain lower electric and gas rates. An offer was made by the utility in November, 1930, of a 10-year contract covering water pumping rates. A second contract was submitted to the Consumers Power Company in January, 1931. In the meantime there had been started discussions for a reduction in residential lighting rates. The Consumers Power Company in February, 1931, proposed that it change over to the Detroit Edison scale of rates for all classes of service, but maintaining Consumers Power Company rules and regulations, which would preclude the furnishing of free lamp renewals. On August 29th there was received from the utility another offer relative to electric rates. This, in substance, proposed to substitute Detroit Edison rates for residential and commercial lighting and power and renewed a former proposal for power for water pumping, specified that the present contract for street lighting continue in force under its present terms, and specified that the new contract for municipal water pumping service would be accepted by the city in lieu of lamp renewals.

City officials made an attempt to induce the Detroit Edison Company to serve that portion of Pontiac which is now being served by the Consumers Power Company, but it is stated that the Detroit Company declined to enter the business in Pontiac. Amicable negotiations between city officials and utility officers seemed to end with a disagreement on the question of free lamp renewals and a 10-year contract with the city for power required for water pumping services. The resolution to appeal to the public utilities commission followed.

While Pontiac was seeking service by the Detroit Edison Company, Harold H. Emmons, mayoral candidate in Detroit, was attacking the rates of the Detroit Edison Company, according to the Detroit *Times*. He threatened to operate a public lighting plant.

Missouri

Security Issues for Merchandising Business Are Opposed

THE Fair Merchandising Association, formed to fight public utilities which retail appliances, according to the Kansas *Star*, has filed a brief with the public service commission opposing an application by the Kansas City Gas Company for permission to issue an additional $2,180,800 in gold bonds in order to reimburse the company for additions and betterments. The brief points out that the commission has no authority to authorize the issue and sale of bonds by a public utility when it is apparent that any of the proceeds will be used directly or indirectly in a business, which is not a public utility. In addition to the question of authority the brief states further:

"We deem it against public policy to allow a public utility having a monopoly on a given product to use any part of its funds to finance a nonutility enterprise."

New Jersey

Consumers' League Wages War on Utility Rates

A FORMAL demand for a reduction in electric and gas rates has been filed with the public utilities commission by Frank Meeres, counsel for Raymond C. Buckley, a taxpayer and president of the Utility Consumers' League, and other members of that organization, according to the Atlantic City *Press*. The league contends that the present depression would be greatly ameliorated, if the consumers are allowed this relief.

The Utility Consumers' League is composed of utility consumers in all parts of the state. Officers of the league, it is reported, have called upon the mayors of the municipalities of the state and the State League of Municipalities to join in the movement.

New York

Optional Gas Rates Are Under Attack

IT was declared by H. M. Chamberlain, assistant counsel to the public service commission, at a rehearing of the Long Island Lighting Company's rate case, that optional gas rate schedules cause discrimination and make it possible for two consumers living in adjoining houses and using the same volume of gas to pay different rates. He said that the optional rate shifted the responsibility of the choice of rates to the consumer rather than to the utility company and caused the consumer to sign an agreement which later he might find unfavorable. The New York *Times* states:

"In rate Classification 1, it was explained, the consumer signed an agreement for one year, the minimum charge being $1 a month. In rate Classification 2 the consumer pays, for the amount of gas used, but at a slightly increased cost for each hundred cubic feet. Once a consumer has signed an agreement to use gas under Classification 1 he must continue under that classification for one year, after which he may change to the other classification if he believes it would be cheaper.

"More than 1,500 persons in Suffolk county, now using Classification 1, will be benefited by using the other classification, but this is impossible because they must wait until their contract expires at the end of the year period, according to the testimony of J. W. Carpenter, commercial representative of the Long Island Lighting Company.

"Figures showing the number of consumers using each of the two rates in Suffolk county were introduced into evidence by former Judge William L. Ransom, counsel for the lighting company. In Suffolk county, the tabulation showed, only 100 consumers used Classification 2 in 1929, but that the number has increased to 1,000 since that time."

Emergency Rate Reduction Is Demanded

A PETITION by New Rochelle for a reduction in the electric rates of the Westchester Lighting Company was taken under advisement on October 5th by the public service commission. Corporation Counsel Patrick J. Rooney, in a brief, argues for an emergency rate reduction pending further investigation. He insists that lower prices justify this reduction as soaring prices during the war justified emergency rate increases for many utilities.

This marked the conclusion of a bitter legal struggle between counsel over the admissibility of evidence, says the New Rochelle *Standard Star*. Over objections by Judge Ransom there was read into the record a financial statement which was based upon the lighting company's reports to the public service commission. The statement set forth a total capital in excess of $43,000,000 and an operating income of $4,681,004.02. The conclusion was reached by consumer witnesses that rates should be reduced 28.7 per cent.

The commission has also been investigating the service charge in the rate schedules of the Westchester Lighting Company. In these proceedings, over the objections of Mr. Rooney, Chairman Maltbie admitted data and statements which the city counsel deemed irrelevant because, according to his viewpoint, the only matter involved was the service charge, rather than a hearing on rates. Hearings were adjourned to November 6th to permit the companies to produce an analysis of customers' accounts and the consumption of gas per block.

Electric Rates Fixed By Commission Are Assailed

MAYOR James Walker of New York, at an open meeting in the city hall attended by representatives of civic and business organizations opposed to rate schedules recently authorized for the Edison Electric Company by the public service commission, pledged the aid of the city to secure a revision of the rates. The charge is made that under the new rate schedules, which, according to commission estimates, would amount to a reduction of more than $5,000,000 annually, the rates of a large number of patrons would be increased. Exception is taken particularly to demand charges for commercial consumers and a minimum charge for domestic consumers.

The new rates, which would apply not only to the New York Edison Company but also to the United Electric Light Company, have been made the subject of attack by the Washington Heights Taxpayers' Association and hearings have been held by the commission on complaints by this group. Dr. Milo R. Maltbie, chairman of the commission, at one of the hearings, according to the New York *Times*, expressed his hope that savings of $10,000,000 a year in electric rates of residents of New York state would result from the activities of the commission. This figure includes the reduction allowed by the Edison companies in New York city.

Ohio

Ordinance Canceling Gas Utility Franchise Is Vetoed

BECAUSE he believed the gas rate dispute in Akron "should not be made a political football," Mayor G. Lloyd Weil on October 2nd vetoed an ordinance ordering cancellation of the East Ohio Gas Company franchise. The ordinance had been passed because of a failure by city officials to obtain lower rates. The Akron *Beacon Journal* says:

"While council unanimously approved the cancellation ordinance in the first instance, there is some doubt now that unanimous enactment over the veto can be obtained by proponents of the measure. Some members of council are known to be 'on the fence.' It will require two thirds of council's thirteen members to enact over the veto.

"Information that R. W. Gallagher, president of East Ohio Gas Company, will not, 'under any circumstances,' come to Akron, or meet members of council any other place, to discuss the rate dispute until after the November election, has reached certain city officials, it was disclosed today. That being the case, they are of the opinion nothing can be done by council's utilities committee until after election.

"East Ohio officials are represented as refusing to be 'put in the middle' in a rate argument which might be used in strengthening the political fences of any nominee for mayor, or other public office."

Street Car Fares in Cleveland Are Raised

THE Cleveland Railway Company, following a protest against an increase in street

car fares from 8 to 10 cents, submitted a new schedule which would make city cash fares 10 cents and the ticket rate 7½ cents. This compromise fare went into effect on October 7th with the approval of Cleveland and Cleveland Heights city councils. Tickets are to be sold at the rate of four for 30 cents. In Cleveland Heights and in East Cleveland the cash fare will be 12 cents and the rate for tickets will be 9 cents.

Passengers, according to the Cleveland *News*, were to be required to drop an additional cent in the box when using the old tickets but one of the councilmen announced that he would introduce legislation in the council to eliminate the payment of the extra cent when old tickets were used. The new rates, it is understood, will be in effect for a trial period of sixty days, after which further action will be taken.

Tennessee

Street Railway Company Seeks to Avoid Higher Fare

THE Memphis Street Railway Company, we read in the Memphis *Evening Appeal*, has notified the city that it is seeking other means of financing its operations during 1932 without raising the fare. The company, under the law, is entitled to ask and receive permission from the commission to raise fares next year, it is said. The *Evening Appeal* states:

"Under the law, if the street car company's deficit for the calendar year is more than $100,000 based on 6½ per cent return on the rate base, a raise in fares may be applied for by the company and granted by the state railroad and utilities commission.

"In case of a surplus of $100,000 or more above a 7½ per cent return on the rate base, the city or any citizen may ask and receive a reduction in fare.

"E. W. Ford, vice president of the company, today said that operations of the car company for the first nine months of 1930 already had resulted in a deficit of more than $100,000 based on the 6½ per cent return."

The present fare is 7 cents. Trackless trolleys which will start on one of the lines soon may be the salvation of the street car company, Mayor Overton thinks. Should the trackless trolleys replace the street cars as a result of the experiment on this line, it is believed that people who use their cars to go to and from work would ride the trolley.

West Virginia

Lowered Gas Rate Fails to Satisfy

CITIES served by the United Fuel Gas Company, according to newspaper reports, are dissatisfied with new gas rates ordered on October 3rd by the public service commission. Counsel for the gas company also stated that the company was disappointed with the new rates, and that the utility would continue the litigation for higher rates.

The recent order prescribes a temporary rate of 29 cents a thousand cubic feet to domestic consumers. This represents a decrease of 2 cents to domestic consumers in Huntington and 1 cent to the same class of consumers in Charleston and Williamson. The uniform rates replace temporary rates ordered by the commission in June, 1929, which varied for domestic consumers in different localities.

Facts Worth Noting

DESPITE the general business decline, $1,275,000,000 of capital was invested last year in public utility companies in the United States.

* *

A WATCH, made of a nickel-steel alloy that cannot be magnetized, has been devised for the special use of utility employees who man electric trains and work in power houses.

* *

POSTAL TELEGRAPH has inaugurated a "social secretarial service" in New York, and placed in charge of it a Social Registerite whose job it now is to answer queries concerning social and shopping problems.

The Latest Utility Rulings

Three-Part Gas Rate Preferred to Block Rate in Wyoming

THE Wyoming Public Service Commission recently issued an order changing back the basis for a commodity charge on natural gas in Cheyenne from the block rate, experimentally established in June, 1930, to a three-part rate previously used. The commission pointed out the three following advantages to the three-part rate:

"1. The present type of rate schedule is beneficial to the small consumer whom we desire to benefit when such benefit can be given so that it is not at the expense of other classes of consumers.

"2. By using the present form of rate the proper differential in the commodity charge to allow the increased cost of Texas gas less expense disallowed by the commission can be calculated to a mathematical certainty without the use of estimates as to the effects of a different form of rate.

"3. As expressed by the mayor, the people of Cheyenne have become accustomed to the present form of rate and retention of it would result in less confusion and lack of uncertainty than a new and different type, particularly in view of the fact that the present form is retained in respect to Wellington gas."

The rates allowed for natural gas were said by the commission to be the lowest which it could equitably allow while giving the company a return of 7 per cent on the estimated value of the property devoted to public service in Wyoming. *Re Cheyenne Light, Fuel & Power Co.* (*Wyo.*)

Wisconsin Commission Adopts Rules for Assessing Regulatory Costs

PURSUANT to an act of the 1931 legislature of Wisconsin, authorizing the commission of that state to charge against public utilities, power districts, and railroads the expenses reasonably attributable to the performance of the commission's public duties, the Wisconsin commission, in an opinion written by Commissioner Lilienthal, has formally adopted procedure and principles for assessing against such public service concerns the cost of investigations, appraisals, and special services by the commission. No charge was made for general overhead expenses of the commission and only costs directly and strictly attributable to the expense in particular proceedings were held to be chargeable. The time of all persons assigned to such particular proceedings in the offices of the commission, or elsewhere, including traveling time except overnight riding, will be charged, as well as the time devoted to preparing summaries, exhibits, and writing and typing reports; also, the time spent in testifying and in required attendance at hearings. No time of the commissioners themselves or the general office staff of the commission will be charged, however, nor the time of department heads when engaged in supervisory work. Further specific provision was made for such items as traveling expenses, stationery and printing, transcripts, consultants, and special employees. The commission announced that it would be its practice to make an express finding of necessity for investigation of the affairs of any particular public service concern before such concern would be under any duty to pay

resultant expenses. Following such a finding of necessity, the commission's announced practice contemplates a conference with the commission or its staff by the interested parties for the purpose of discussing the program of the investigation and the consequent assessment of regulatory cost. The statute gives the commission power to exempt from the payment of regulatory costs any public utility, power district, or railroad, where in the former's discretion such action is required by public interest. Some doubt has been thrown on the validity of the statute by the recent action of Circuit County Court Judge Hoppmann in holding the act to be an unconstitutional delegation of powers by the legislature. *Re Assessment of Regulatory Expenses.* (*Wis.*) *2–U–19.*

Introduction of Natural Gas Brings Lower Rates and Higher Heat Value in Chicago

A BELIEF upon the part of the Illinois commission that the public should immediately benefit from any rate reductions which might be reasonably possible because of the mixture of natural gas with artificial gas produced in Chicago, has resulted in an order establishing temporary rates for the Peoples Gas Light & Coke Company pending further investigation of proposed rates on a therm basis in place of the cubic foot basis. The rates are approximately 6½ per cent lower for domestic service and approximately 31 per cent lower for space-heating purposes. The company is also authorized to increase the present standard of 530 B.T.U. per cubic foot to 800 B.T.U. per cubic foot by mixing natural gas with manufactured gas. Increased patronage under the lower rates is expected to recoup present revenue losses.

The new rates and heating quality were made possible by the recent completion of a natural gas pipe line from the Texas gas fields to Joliet, Illinois, from which point the gas will be sent to the city of Chicago. The utility was of the opinion that the local production of 100,000,000 cubic feet per day of coke oven gas from an economic viewpoint should not be disregarded upon the advent of natural gas. Accordingly, the two gases are to be utilized in such proportions as will produce a mixed gas having the desired heating value. *Re Peoples Gas Light & Coke Co.* (*Ill.*) *Nos. 21010, 21170.*

Natural Gas Merger Refused in New York State

COMMISSIONER Burritt, rendering an opinion for the New York Public Service Commission, has denied a petition of the New York State Natural Gas Corporation for consent to transfer its system to the Valley Gas Corporation. The proposed transfer was denied as not being shown to be in conformity with public interest. Commissioner Burritt pointed out that one of the claimed advantages of the proposed transfer was the drilling of additional producing gas wells in the area so as to increase the supply during the winter. Although conceding this to be in public interest, Commissioner Burritt observed that both the Valley Gas Corporation which already had leased additional land for the drilling of new wells, and the New York State Natural Gas Corporation were under a common corporate control. For this reason Commissioner Burritt was unable to see why the parent corporation could not do anything and everything that was proposed that its child, the Valley Gas Corporation, should do. The opinion stated that the new corporation would

be wholly dependent upon its creator and owner for finances, and that the customers would in the future be served by a new and unknown corporation whose ability to serve had not been clearly established. The commission's opinion also took particular exception to the amount of securities sought to be issued by the purchasing corporation. It was stated that if the applicant desired to present additional proof of book value of the property proposed to be transferred, and to show more conclusively that the transfer would be in public interest, it would have an early opportunity to do so. *Re New York State Natural Gas Corp. et al.* (*N. Y.*) *Case No. 7044.*

Complaint against New York City Meter Installation Dismissed

THE New York commission has dismissed a complaint by a Brooklyn baking company against metered installation policy of the Brooklyn Edison Company, Inc. It appears that in August, 1929, the premises occupied by the baking company were served by a 3-wire single element 5-ampere meter. Subsequently, the company substituted a single element 2-wire meter. In December, 1930, the baking company went into possession of the premises and demanded that the utility remove the 2-wire meter and put a 3-wire two element meter back in. The utility refused to do so. The complainant claimed that by reducing the connection to a 2-wire feeder meter there was cut off the availability of practically 50 per cent of the power that could go through a 3-wire feeder of this size. The utility answered that the reduced connection was part of its effort to reduce the number of types and standards of service in Brooklyn and to establish there a unified system. In dismissing the complaint the New York commission observed that certain managerial latitude must necessarily be left to the judgment of the utility company in the matter of meters, and that in the absence of evidence that either type of meter was unsafe or unable to measure current fairly to meet the requirements of the consumers, there would be no justification in the commission requiring the utility to use either. *Re Brooklyn Edison Co.* (*N. Y.*) *Case No. 6888.*

Five-Cent Subway Fare for New York City Receives State Court Approval

IT is no secret that the regulatory commission of New York state, to wit: the Transit Commission, is opposed to having New Yorkers pay any more than a nickel to ride on the subway. The attitude of the Federal court in the matter has been necessarily a "hands off" policy as a result of a United States Supreme Court decision of recent months, holding in effect that Federal courts have no jurisdiction in the case, at least until the state courts have construed the effect of certain New York state legislative acts creating operating contracts between the subway companies of the city of New York. Now the courts of New York have finally reviewed these legislative acts and contracts and the answer is still "no." Following the United States Supreme Court's decision, the Interborough Rapid Transit Company was restrained by judgment of the special term of the supreme court of New York—a lower court—which ordered permanently the specific performance of the subway company's legislative contracts, and permanently enjoined the subway company from charging a fare in excess of one nickel. Upon appeal to the appellate division the lower court's judgment was affirmed. The final appeal was

taken to the court of appeals—the highest court of New York. The recent opinion written by Judge O'Brien sustains both the lower courts, and reiterates the principal holding made by the lower courts to the effect that contract No. 3 entered into in March, 1913, between plaintiff and the defendant and promulgated by legislative enactments is not subject to the general regulatory policy announced by the Public Service Commission Law of 1907. Accordingly, the regulatory commissions of New York state, deriving as they do their general rate-making powers from the Public Service Commission Law, were held to have no authority to alter the 5-cent rate for service fixed in contract No. 3, nor to entertain a proceeding to that end. *New York v. Interborough Rapid Transit Co. et al. (N. Y. Ct. App.) No. 316.*

Prospective Water Consumers Are not Required to Bear the Entire Burden of Territorial Extension Costs

In lower Allen township on the Harrisburg-Gettysburg pike, Pennsylvania, there is a little village called Rana Villa. The Riverton Consolidated Water Company refused to extend service to this community on the ground that the prospective return did not warrant the investment that would be necessary. The Pennsylvania commission investigated and brought a complaint against the company. It was found that the water company expected too great an assurance of business from the prospective consumers. The commission stated:

> "While the commission will not interfere with the reasonable exercise of a water company's managerial discretion as to the method of constructing its facilities, it cannot agree that public water service under the facts such as here presented may properly be withheld until such time as the community is able to produce a return, not only on the facilities necessary to supply it, but also on such facilities as the company may plan ultimately to install in that area as part of its general service to the entire territory. In the light of the amounts guaranteed and of all the attendant facts, the commission finds that the service, accommodation, and convenience of the public require the extension and that it is a reasonable one for the company to make at the present time."

Public Service Commission v. Riverton Consolidated Water Co. (Pa.) Complaint Docket No. 8817.

Other Important Rulings

The supreme judicial court of Massachusetts has decided that it is no part of the ostensible authority of the ordinary agents of a telephone company to undertake to receive messages, and by their own voices to transmit them to others. A telephone company, the court held, is not bound to transmit a message for a subscriber, even in the emergency of reporting a fire. The decision came as a result of a suit brought for damages by the victims of a fire against the New England Telephone Company, because of the failure of fire apparatus to appear. The operator of the company refused to transmit the call on the ground that she was not authorized to summon the fire department of an adjacent community without authority from an official of the town in which the fire was located. *Mentzer v. New England Telephone & Telegraph Co. (Mass. Sup. Jud. Ct.)*

Special Master I. S. Hopkins sustained the Georgia Public Service Commission and recommended that a reduced rate order issued by the commission in February, 1930, should be given